

FINAL

**ENVIRONMENTAL
IMPACT REPORT FOR
HYATT REGENCY
NEWPORT BEACH
EXPANSION**

SCH NO. 2006121052



prepared for:

**CITY OF NEWPORT
BEACH**

Contact:
Jaime Murillo
Associate Planner

prepared by:

**THE PLANNING
CENTER**

Contact:
JoAnn Hadfield
Director, Environmental
Services

**REVISED
FEBRUARY 2009**

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**CITY OF NEWPORT
BEACH**

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Services

CNB-09.0E

**REVISED
FEBRUARY 2009**

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1. *Introduction*

1.1 **INTRODUCTION**

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 et seq.) and CEQA Guidelines (California Administrative Code Section 15000 et seq.).

According to CEQA Guidelines, Section 15132, the FEIR shall consist of:

- (a) The Draft Environmental Impact Report (DEIR) or a revision of the Draft;
- (b) Comments and recommendations received on the DEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies comments on the DEIR;
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Lead Agency.

This document contains responses to comments received on the DEIR for the Hyatt Regency Newport Beach Expansion project during the public review period, which began February 12, 2008, and closed March 27, 2008. This document has been prepared in accordance with CEQA and the CEQA Guidelines and represents the independent judgment of the Lead Agency. This document and the circulated DEIR comprise the FEIR, in accordance with CEQA Guidelines, Section 15132.



1.2 **FORMAT OF THE FEIR**

This document is organized as follows:

Section 1, Introduction. This section describes CEQA requirements and contents of this FEIR.

Section 2, Response to Comments. This section provides a list of agencies and interested persons commenting on the DEIR; copies of this comment letters received during the public review period and submitted at the public hearing(s) and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A1 through A6 for letters received from agencies, O1 through O3 for letters from organizations, and R1 through R11 for letters received from residents). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

Section 3 Revisions to the Draft EIR. This section contains revisions to the DEIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the DEIR for public review.

The responses to comments contain material and revisions that will be added to the text of the FEIR. The City of Newport Beach staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the DEIR for further public

1. Introduction

comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that would not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204(a) outlines parameters for submitting comments, and reminds persons and public agencies that the focus of review and comment of DEIRs should be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204(c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204(d) also states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The responses will be forwarded with copies of this FEIR, as permitted by CEQA, and will conform to the legal standards established for response to comments on DEIRs.

2. *Response to Comments*

Section 15088 of the CEQA Guidelines requires the Lead Agency (City of Newport Beach) to evaluate comments on environmental issues received from public agencies and interested parties who reviewed the DEIR and prepare written responses.

This section provides all written responses received on the DEIR and the City of Newport Beach's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the DEIR are excerpted in this document, the sections are shown indented. Changes to the DEIR text are shown in **Bold Text** for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the DEIR during the public review period.

<i>Number Reference</i>	<i>Commenting Person/Agency</i>	<i>Date of Comment</i>	<i>Page No.</i>
Agencies			
A1	Native American Heritage Commission	March 3, 2008	2-3
A2	California Coastal Commission, South Coast Area Office	March 25, 2008	2-9
A3	Department of Conservation: Division of Oil, Gas, and Geothermal Resources	March 25, 2008	2-15
A4	Department of Transportation, District 12	March 26, 2008	2-19
A5	Airport Land Use Commission for Orange County	March 28, 2008	2-23
A6	Department of Toxic Substances Control	April 3, 2008	2-27
A7	City of Irvine	October 22, 2008	2-33
Organizations			
O1	Environmental Quality Affairs Committee	March 18, 2008	2-39
O2	The Irvine Company	March 26, 2008	2-61
O3	Unite Here! Local 11	March 26, 2008	2-65
Residents			
R1	Gerard Adhoute MD, FACS	March 1, 2008	2-81
R2	Winnie Jay	March 8, 2008	2-85
R3	Jan D. Vandersloot	March 26, 2008	2-89
R4	Peter S. Bordas	March 26, 2006	2-93
R5	Gerald S. Morris and Gay G. Morris	March 27, 2008	2-97
R6	Yvette Alexander	April 1, 2008	2-101
R7	Jean C. Browning	April 2, 2008	2-105
R8	James & Katherine Murphy	April 2, 2008	2-111
R9	Karen Lucian	April 3, 2008	2-115
R10	Dolores Otting	April 4, 2008	2-127
R11	Sandra Genis	April 4, 2008	2-135



This section also includes formal responses and a copy of a comment letter submitted by Robert A. Hamilton at the November 6, 2008 Planning Commission Public Hearing on the proposed project. The

2. Response to Comments

letter, prepared on behalf of, and addressed to “Stop Polluting Our Newport (SPON)” reviewed potential biological resources issues associated with the proposed project and has been included as Letter O4.

Organizations

04	Robert A. Hamilton (letter to SPON)	November 6, 2008	2-71
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2. Response to Comments

Letter A1 – Native American Heritage Commission (4 pages)

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net

March 3, 2008

Mr. Jaime Murillo, Associate Planner

CITY OF NEWPORT BEACH
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: SCH#2006121052, CEQA Notice of Completion, draft Environmental Impact Report (DEIR) for a Commercial Development, Hyatt Regency, City of Newport Beach, Orange County, California

Dear Mr. Murillo:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c) (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278) <http://www.ohp.parks.ca.gov>. The record search will determine:

- If a part or the entire APE has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in or adjacent to the APE.
- If the probability is low, moderate, or high that cultural resources are located in the APE.
- If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
- The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
- The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- √ Contact the Native American Heritage Commission (NAHC) for:
 - * A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
- The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resource may be known only to a local tribe(s).
- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
- Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
- A culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
- Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.



A1-1

2. Response to Comments

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

√ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

A1-1
(cont'd)

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**Native American Contacts
Orange County
March 3, 2008**

Juaneno Band of Mission Indians Acjachemen Nation

David Belardes, Chairperson
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

DavidBelardes@hotmail.com
(949) 493-0959
(949) 493-1601 Fax

Juaneno Band of Mission Indians Acjachemen Nation
Joyce Perry , Tribal Manager & Cultural Resources
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

kaamalam@cox.net
(949) 493-0959
(949) 293-8522 Cell
(949) 493-1601 Fax

Gabrielino/Tongva Council / Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary
761 Terminal Street; Bldg 1, 2nd floor Gabrielino Tongva
Los Angeles , CA 90021

office @tongvatribes.net
(213) 489-5001 - Officer
(909) 262-9351 - cell
(213) 489-5002 Fax

Juaneno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

alfredgcruz@sbcglobal.net
714-998-0721
sfredgcruz@sbcglobal.net

Juaneno Band of Mission Indians Acjachemen Nation

Anthony Rivera, Chairman
31411-A La Matanza Street Juaneno
San Juan Capistrano , CA 92675-2674

arivera@juaneno.com
949-488-3484
949-488-3294 Fax

Juaneno Band of Mission Indians
Adolph "Bud" Sepulveda, Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799

bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Gabrielino Tongva Indians of California Tribal Council

Robert Dorame, Tribal Chair/Cultural Resources
5450 Stauson, Ave, Suite 151 PMB Gabrielino Tongva
Culver City , CA 90230

gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax

Sonia Johnston, Tribal Vice Chairperson
Juaneno Band of Mission Indians
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

(714) 323-8312
sonia.johnston@sbcglobal.net

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#2006121052; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for a Commercial Development; Hyatt Regency; City of Newport Beach; Orange County, California.



2. Response to Comments

**Native American Contacts
Orange County
March 3, 2008**

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

Juaneno Band of Mission Indians
Joe Ocampo, Chairperson
1108 E. 4th Street
Santa Ana , CA 92701
(714) 547-9676
(714) 623-0709-cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#2006121052; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for a Commercial Development; Hyatt REgency; City of Newport Beach; Orange County, California.

2. Response to Comments

A1. Response to Comments from the Native American Heritage Commission, Dave Singleton, dated March 3, 2008.

A1-1 Pursuant to the December 12, 2006, letter in response to the EIR Notice of Preparation (NOP) from the Native American Heritage Commission (NAHC), a Cultural Resources Assessment was prepared for the proposed project by Cogstone Resource Management (DEIR Appendix, E). As documented in DEIR Section 5.4, *Cultural Resources*, this study included a literature search of archaeological and historical records and a reconnaissance survey of the proposed project area (conducted on November 6, 2006). A summary of recorded sites within a one-mile radius of the project area is included as DEIR Table 5.4-1.

Cogstone also consulted with the NAHC to determine if there are any known sacred lands in or near the project area. NAHC responded that no sacred lands are known in the vicinity of the project site. As recommended by NAHC, Cogstone also contacted each tribe or person recommended by the NAHC. The findings of these contacts are detailed in the DEIR.

As recommended in this letter and the previous NOP response letter from NAHC, the DEIR includes provisions for the potential discovery of subsurface archaeological resources (Mitigation Measures 4-1 and 4-2) and for the potential discovery of Native American human remains or unmarked cemeteries (Mitigation Measure 4-4).



2. Response to Comments

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2. Response to Comments

Letter A2 – California Coastal Commission, South Coast Area Office (2 pages)

STATE OF CALIFORNIA - THE RESOURCES AGENCY	RECEIVED BY	ARNOLD SCHWARZENEGGER, Governor
	PLANNING DEPARTMENT	
CALIFORNIA COASTAL COMMISSION	MAR 27 2008	
South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071	CITY OF NEWPORT BEACH	March 25, 2008

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

RE: Hyatt Regency Newport Beach Expansion Draft Environmental Impact Report (SCH# 2006121052)

Dear Mr. Murillo,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Hyatt Regency Newport Beach Expansion (Project). Following are issues of concern that the staff of the California Coastal Commission (CCC) suggests should be further addressed:

- The City's 2005 certified Coastal Land Use Plan (LUP) contains policies aimed at the protection, enhancement and provision of lower-cost visitor serving and recreational developments. These policies were not addressed in the DEIR. Under the CIOSA agreement, the Hyatt Newport received the right to expand to 479 rooms. The proposed Project includes the demolition of 12 out of 403 existing hotel rooms and the construction of 88 new time share units on a site designated as Visitor Serving Commercial in the LUP. This proposal raises several issues. The project results in a net loss of traditional hotel rooms on the property; and the loss of capacity for future additional traditional hotel rooms on the property that may be necessary to accommodate future demand. This raises concerns with regard to Coastal Act Sections 30222 and 30223 which, respectively, encourage use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation, and encourage reserving upland areas necessary to support recreational uses. Also, Coastal LUP policy 2.3.3-1 requires the approving authority to "protect, encourage, and provide lower-cost visitor accommodations including campgrounds, recreational vehicle parks, hostels, and lower-cost hotels and motels", which stems from Coastal Act Section 30213 in which the provision for lower-cost visitor accommodations is identified a priority use in the coastal zone. Time share units are not considered to be lower-cost visitor accommodations and therefore do not have priority over lower-cost visitor accommodations in the coastal zone. Therefore, the City should consider requiring the remaining entitlements granted under CIOSA to be reserved for the provision of on-site lower-cost visitor accommodations. Where such provision isn't feasible, appropriate mitigation/off-sets should be required in order so that lower-cost visitor accommodations can be provided elsewhere in a coastal area. Additionally, the Coastal LUP does not specifically allow for limited use/fractional ownership time share units in the Visitor Serving Commercial zone. Commission staff is supportive of time share developments in general commercial or other land use designations, however usually not in visitor serving zones as they are only considered "quasi" visitor serving compared to regular hotel rooms. A2-1
- As expressed in the Coastal Commission's initial comments to the Notice of Preparation of an Environmental Impact Report for the Project, dated January 16, 2007, the 2005 certified City of Newport Beach Coastal Land Use Plan (LUP) does not specifically allow for limited use/fractional ownership "time share" units in the Visitor Serving Commercial zone. In this respect, the proposed Project is currently inconsistent with the Coastal LUP. The CCC recognizes the certified Coastal Land Use Plan and not the City's A2-2



2. Response to Comments

Page 2 of 2

General Plan for land use planning within the coastal zone. The Coastal LUP would need to be amended to change the land use designation of the project site or specifically allow for time share units in the Visitor Serving Commercial Zone for this site (if such a proposal could be found consistent with Chapter 3 policies of the Coastal Act). Any LUP amendment(s) that are necessary for this project should be sought by the City prior to the pursuit of development entitlements (e.g. coastal development permit) by the project proponent. Only the local government can prepare and submit an LUP amendment application for Commission review and action.

A2-2
(cont'd)

- The proposed Project is adjacent to the Upper Newport Bay Ecological Reserve. The City of Newport Beach Coastal LUP contains policies requiring coastal resource protection (i.e., provide appropriate buffer areas and setbacks, shield and direct exterior lighting away to minimize impacts to wildlife, prohibit new development that would necessitate fuel modification within the Environmentally Sensitive Habitat Areas (ESHA), etc.). The DEIR impact analysis states that there is no ESHA on-site and that the project design would result in complete avoidance of adjacent off-site coastal sage scrub ESHA with a 50-foot minimum buffer area between developed areas and off-site CSS. However, it appears that vegetation and fuel modification is proposed in the 50-foot ESHA buffer area. Development adjacent to ESHA must be compatible with the continuance of the ESHA. Coastal LUP policy calls for buffer areas to be maintained with exclusively native vegetation to serve as transitional habitat, not as a fuel modification zone. Fuel modification requirements to address fire hazard should be set back (within Project boundaries and outside of buffers) so that the buffer areas serve their intended function of protecting ESHA from the disruption of habitat values.

A2-3

The Chapter 3 policies of the Coastal Act will remain the standard of review for any coastal development permit until the City has a fully certified Local Coastal Program, although, the Coastal Land Use Plan will provide strong guidance. Please note that the comments provided herein are preliminary in nature. Additional and more specific comments will be provided if the City pursues a Land use Plan amendment to accommodate the project and if it is submitted to the Commission for a coastal development permit. We request notification of any future activity associated with this project or related projects.

A2-4

Additionally, the comments contained herein are preliminary and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. Once again, thank you for the opportunity to comment on the Hyatt Regency Newport Beach Draft EIR.

Sincerely,



Liliana Roman
Coastal Program Analyst

2. Response to Comments

A2. Response to Comments from the California Coastal Commission, Liliana Roman, Coastal Program Analyst, dated March 25, 2008.

A2-1 The City's Coastal Land Use Plan (CLUP) policies regarding the protection, encouragement, and provision of lower-cost visitor-serving and recreational facilities are:

Policy 2.3.3-1 Protect, encourage and provide lower-cost visitor accommodations, including campgrounds, recreational vehicle parks, hostels, and lower-cost hotels and motels.

Policy 2.3.3-2 Encourage new overnight visitor accommodation developments to provide a range of rooms and room prices in order to serve all income ranges. Consistent with Section 30213 of the Coastal Act, the City shall in no event (1) require that overnight room rental be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private land; nor (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Policy 2.3.3-3 Identify, protect, encourage and provide lower-cost visitor-serving and recreation facilities, including museums and interpretative centers.

In the comment, the California Coastal Commission suggests that the development will result in a net loss of 12 existing hotel rooms and the potential loss of 76 future hotel rooms that provide lower-cost accommodations. The existing 403-room, resort-style hotel, however, does not currently provide any lower-cost accommodations or recreational facilities. Average room rates for guest rooms are \$298 a night and it is expected that any future hotel rooms on the site would have similar charges. In addition, the 12 hotel rooms proposed to be demolished are in four separate villas with three rooms each, where each room can be booked individually or in combinations. These rooms are booked through the hotel directly and are not available on-line or through the Hyatt's general reservation number. The rooms range in price from \$850 to \$1,100 a night individually, or \$2,500 a night to book an entire villa. These accommodations are not considered lower-cost, and therefore, their elimination would not impact existing lower-cost visitor accommodations within the City.

The comment also provides that the City should consider requiring the provision of lower-cost accommodations rather than the proposed timeshare component of the project and that Section 30213 of the Coastal Act provides that lower-cost accommodations are a priority in the Coastal Zone. Section 30213 of the Coastal Act states, "Lower Cost visitor and recreation facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred." Section 30213 does not prioritize lower-cost accommodations, but identifies public recreational opportunities as the preferred priority. In addition, as stated above, there are no current lower-cost accommodations to be protected because the hotel rooms to be demolished for the project are not lower-cost accommodations.



2. Response to Comments

In regard to whether the lower-cost accommodations are feasible, as provided in Section 30213, the City and applicant have examined the possibility of providing lower-cost accommodations within the project; however, the applicant has indicated that providing overnight accommodations at what might be considered lower cost is not financially feasible. The proposed project is privately owned and operated and CLUP Policy 2.3.3-2 and Coastal Act Section 30213 prohibit the City and Coastal Commission from fixing the overnight room rental rate. Therefore, requiring the project to provide overnight accommodations to be lower cost would be contrary to the CLUP and Coastal Act. However, the City and the applicant have agreed in principle to the following public benefit as a component of a proposed Development Agreement, based on the priority for public recreational opportunities established by Section 30213 of the Coastal Act:

Visitor and Recreational Facilities – Marina Park. Landowner shall pay to City the sum of two million dollars (\$2,000,000) at the time of issuance of the first time-share building permit, to be used for improvements that provide visitor and recreational facilities at Marina Park or at any other site designated by the City in its discretion (Visitor and Recreational Facilities Fee). The Visitor and Recreational Facilities Fee may be used by the City to provide public access to Newport Bay, public parking, picnic areas, playground equipment, basketball and tennis courts, lower-cost concessions, and recreational programs.

Furthermore, consistent with CLUP Policy 2.3.3-1, the City has provided an opportunity for economical overnight accommodations, subject to any applicable approvals, in the form of a 275-room family inn to be constructed at the Newport Dunes.

The comment also suggests that timeshare developments are not appropriate at sites designated Visitor-Serving Commercial (CV) by the CLUP as they are only “quasi” visitor-serving when compared to hotel rooms. The comment is inaccurate in that 100 percent of the proposed timeshare units are visitor-serving uses because they provide overnight lodging accommodations and other services to visitors to the coastal zone. Owners of the timeshare units, owners of other timeshares who exchange their interest for a period of time at the proposed project, and members of the public who rent non-owner-occupied timeshare units, are all visitors to the coastal zone. Timeshares are not residential uses because owners cannot reside at the site permanently and their visit is limited to the period of time they purchased, typically one to two weeks. The applicant’s timeshare plan includes a limit of ownership to nine weeks total per individual while also limiting owners’ visits to no more than four consecutive weeks per visit, thereby maintaining a constant turnover of visitors to the coastal zone.

A2-2

The comment suggests timeshare developments are not allowed on sites designated Visitor-Serving Commercial (CV) by the Coastal Land Use Plan (CLUP) as they are not specifically allowed, and therefore, the project would require an amendment of the CLUP to be approved. This suggested interpretation can only be valid if timeshares were viewed as not providing lodging accommodations or not providing those services to visitors. As discussed in Response A2-1, the proposed project, including timeshares, provides overnight lodging accommodations and other services to visitors of the coastal zone. Although the CLUP does not define

2. Response to Comments

“accommodations” or describe any specific uses that are permitted under the CV designation, timeshares are described as a visitor-serving use in the narrative within Section 2.3.1 (Visitor-Serving and Recreational Development) of the CLUP which states, “*Visitor-serving and recreational activities are an important part of the character and economy of Newport Beach. In 2003, Newport Beach had 14 hotels, motels, timeshares and bed & breakfast inns in the coastal zone and 18 citywide.*” Section 20.05.050(EE)(2) of the Municipal Code also defines Visitor Accommodations as, “*Hotels, Motels, and Time Share Facilities. Establishments offering commercial lodging for less than thirty (30) days. This classification includes incidental eating, drinking, and banquet service intended for the convenience of guests.*”

Timeshares are also considered visitor-serving accommodations in the certified Newport Coast Local Coastal Program (NCLCP). In the Tourist Commercial Planning Area of the NCLCP, timeshares are specifically listed as a permitted type of visitor-serving use. Although the NCLCP is not a part of the City’s CLUP, the Newport Coast area has been annexed to the City.

The CV designation is intended to provide for accommodations, goods, and services intended primarily to serve the needs of visitors to Newport Beach. The proposed project, including timeshares, provides overnight lodging accommodations and other services to visitors of the coastal zone, and therefore the proposed project is consistent with the CV land use designation and no amendment of the CLUP is necessary for project approval.

A2-3 The CLUP policies referenced by this commenter are:

Policy 4.1.1-11 Provide buffer areas around ESHAs and maintain with exclusively native vegetation to serve as transitional habitat and provide distance and physical barriers to human and domestic pet intrusion.

Policy 4.4.4-12 Require the use of native vegetation and prohibit invasive plant species within ESHAs and ESHA buffer areas.

The CLUP also specifies:

Policy 4.4.4-4 Prohibit new development that would necessitate fuel modification in ESHA.

None of the three policies specifically prohibit fuel modification within the required buffer areas, if it can be accomplished with the use of native plant species. The project design proposes the use of native, fire-resistant species, planted exclusively in the Special Treatment Zone, which is the 50-foot buffer between the environmentally sensitive habitat areas (ESHAs) and the proposed buildings. The native vegetation would be low-growing grasses and forbs that, while occurring within an area that may occasionally be subject to fuel modification, would require only periodic minor maintenance that would not result in any degradation of the adjacent ESHA. The species selected are native to the coastal ecosystem of Central Orange County and would provide transitional habitat for foraging for a wide suite of native species that also utilize the adjacent Coastal Sage Scrub ESHA. Furthermore,



2. Response to Comments

any required maintenance would occur outside of the avian nesting season to ensure that the values of the adjacent ESHA are not disrupted, including potential breeding by the California gnatcatcher. The project design, therefore, would ensure full compliance with the City's CLUP policies. Also note that this type of fuel modification—whereby native fire-resistant plants provide the first zone of fuel modification—was determined to be consistent with Coastal Act policies and has been previously permitted by the Coastal Commission and its biological staff in two projects—the Brightwater project and the Marblehead development—both of which abutted natural open space areas and both of which were permitted through Coastal Commission-approved coastal development permits after a finding that the developments were consistent with the Chapter 3 policies of the Coastal Act. By utilizing native plant material, the traditional fuel modification techniques, which require continued maintenance of the zone closest to the occupied structures, can be avoided.

- A2-4 Comment acknowledged. As noted above, the City concludes that the proposed project would be consistent with the CLUP and that an amendment is not required. As requested, the Coastal Commission will be notified of future activities associated with this project.

2. Response to Comments

Letter A3 – Department of Conservation: Division Oil, Gas, and Geothermal Resources (2 pages)

STATE OF CALIFORNIA, RESOURCES AGENCY		ARNOLD SCHWARZENEGGER, GOVERNOR	
		DEPARTMENT OF CONSERVATION	
		DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES	
		5816 Corporate Avenue, Suite 200, Cypress, CA 90630-4731	
		PHONE 714/816-6847 • FAX 714/816-6853 • WEB SITE conservation.ca.gov	
		RECEIVED BY PLANNING DEPARTMENT	
March 25, 2008		MAR 27 2008	
Mr. Jaime Murillo City of Newport Beach 3300 Newport Boulevard Newport Beach, California 92660		CITY OF NEWPORT BEACH	
Subject: Hyatt Regency Newport Beach Expansion Draft Environmental Impact Report - SCH# 2006121052			
Dear Mr. Murillo:			
The Department of Conservation's (Department) Division of Oil, Gas, and Geothermal Resources (Division) has reviewed the above referenced project. The Division supervises the drilling, maintenance, and plugging and abandonment of oil, gas, and geothermal wells in California.			
The proposed project is located outside the administrative boundaries of any oil and gas field. However, there is one idle well within or in proximity to the project boundaries. The well is identified on Division map W1-6 and in Division records as Santa Ana Oil Co 1. The Division recommends that all wells within or in close proximity to project boundaries be accurately plotted on future project maps.			
Building over or in the proximity of idle or plugged and abandoned wells should be avoided if at all possible. If this is not possible, it may be necessary to plug or re-plug wells to current Division specifications. Also, the State Oil and Gas Supervisor is authorized to order the reabandonment of previously plugged and abandoned wells when construction over or in the proximity of wells could result in a hazard (Section 3208.1 of the Public Resources Code). If abandonment or reabandonment is necessary, the cost of operations is the responsibility of the owner of the property upon which the structure will be located. Finally, if construction over an abandoned well is unavoidable an adequate gas venting system should be placed over the well.			
Furthermore, if any plugged and abandoned or unrecorded wells are damaged or uncovered during excavation or grading, remedial plugging operations may be required. If such damage or discovery occurs, the Division's district office must be contacted to obtain information on the requirements for and approval to perform remedial operations.			
<hr/> <i>The Department of Conservation's mission is to protect Californians and their environment by: Protecting lives and property from earthquakes and landslides; Ensuring safe mining and oil and gas drilling; Conserving California's farmland; and Saving energy and resources through recycling.</i>			



A3-1

2. Response to Comments

Mr. Jaime Murillo, City of Newport Beach

March 25, 2008

Page 2

To ensure proper review of building projects, the Division has published an informational packet entitled, "Construction Project Site Review and Well Abandonment Procedure" that outlines the information a project developer must submit to the Division for review. The Department of Transportation should contact the Division Cypress district office for a copy of the site-review packet. The local planning department should verify that final building plans have undergone Division review prior to the start of construction.

A3-1
(cont'd)

Thank you for the opportunity to comment on the Draft Environmental Impact Report. If you have questions on our comments, or require technical assistance or information, please call me at the Cypress district office: 5816 Corporate Avenue, Suite 200, Cypress, CA 90630-4731; phone (714) 816-6847.

Sincerely,



Paul Frost
Associate Oil & Gas Engineer
Division of Oil, Gas and Geothermal Resources
District 1

2. Response to Comments

A3. Response to Comments from the Department of Conservation, Paul Frost, dated March 25, 2008.

A3-1 The plugged and abandoned dry hole identified on Division map W1-6 as Santa Ana Oil Company 1 was drilled to a depth of 1,235 feet below ground surface (bgs) in 1989, and appears to be approximately 800 feet southeast of the intersection of Back Bay Drive and Jamboree Road. This well is not on the project site, and project implementation would not impact it.



2. Response to Comments

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2. Response to Comments

Letter A4 – Department of Transportation (2 pages)

<small>STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY</small>		<small>ARNOLD SCHWARZENEGGER, Governor</small>
DEPARTMENT OF TRANSPORTATION District 12 3337 Michelson Drive, Suite 380 Irvine, CA 92612-8894 Tel: (949) 724-2267 Fax: (949) 724-2592		 <i>Flex your power! Be energy efficient!</i>
March 26, 2008		
Jaime Murillo City of Newport Beach Planning Department 3300 Newport Boulevard Newport Beach, California 92663	File: IGR/CEQA SCH#: 2006121052 Log #: 1808A SR-1	
Subject: Hyatt Regency Newport Beach Expansion Project		
Dear Mr. Murillo,		
Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Hyatt Regency Newport Beach Expansion Project . The proposed Hyatt Regency expansion would include 88 new timeshare units, a timeshare clubhouse, a new 800-seat ballroom, a new spa facility, a new housekeeping and engineering building, and a new two-level parking garage. The project site is located at 1107 Jamboree Road, on the northwest corner of Jamboree Road and Back Bay Drive in the City of Newport Beach.		
Caltrans District 12 status is a commenting agency on this project and has the following comments:		
1. The significance threshold of 1% increase in V/C established by the city is not the standard set forth by Caltrans. Per CEQA Case Law (<i>King County Farm Bureau et al. v. City of Handford, 1990</i>), a fixed ratio or percentage may not be an appropriate significance threshold for cumulative impact analysis. A minor increase (less than 1%) in traffic could affect the operation of State Route 1. Should there be any significant cumulative impacts, appropriate mitigation measures are to be identified and submitted for our review and comment.		A4-1
2. The DEIR refers to the Circulation Improvement and Open Space Agreement (CIOSA), under which the city has collected fair-share fees from developers as a mitigation measure. Please explain what significant impacts the CIOSA will help mitigate and whether it would cover the cumulative impacts of the Hyatt Expansion project.		A4-2
3. Please clarify if all the added land uses (timeshare units, timeshare clubhouse, ballroom, and spa and fitness center) have been included when generated trips were calculated. Caltrans suggests the Institute of Transportation Engineers (ITE) in Trip Generation (7 th edition) methodology be used for trip generation rates.		A4-3
4. As stated in our previous letter dated January 16, 2007, we suggest the use of Highway Capacity Manual (HCM) methodology as outlined in the latest version for analyzing traffic impacts on State Transportation Facilities.		A4-4
<p style="text-align: center;"><i>"Caltrans improves mobility across California"</i></p>		



2. Response to Comments

Please continue to keep us informed of this project and any future developments, which could potentially impact the State Transportation Facilities. If you have any questions or need to contact us, please do not hesitate to call Zhongping (John) Xu at (949) 724-2338.

A4-5

Sincerely,

Mayam Malani for,

Ryan Chamberlain, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

"Caltrans improves mobility across California"

2. Response to Comments

A4. Response to Comments from the California Department of Transportation, Ryan Chamberlain, Branch Chief, dated March 26, 2008.

A4-1 The City of Newport Beach Traffic Impact Analysis Guidelines has established the significance threshold of 0.01 (1 percent) or greater as the standard for the identification of traffic impacts for projects proposed within the City. The traffic study was prepared consistent with these guidelines. The analysis of future year traffic conditions with the project includes ambient traffic growth on major arterial streets and traffic generated by approved and cumulative projects within the City of Newport Beach.

A4-2 The Circulation Improvement and Open Space Agreement (CIOSA) project and the associated traffic study were approved by the City of Newport Beach in 1992. The CIOSA project included the implementation of several traffic improvements within the City of Newport Beach as a condition of the proposed development to mitigate identified traffic impacts. All of the required traffic improvements have been completed. The proposed expansion of the Hyatt Regency Newport Beach Hotel to a total of 479 rooms was a component of the CIOSA project. Therefore, the currently proposed Hyatt Regency Newport Beach Expansion project, which would provide a total of 479 rooms, is consistent with the approved CIOSA project. The current traffic study was completed as part of an analysis under the California Environmental Quality Act (CEQA) to determine if the environmental baseline conditions have changed since the original 1992 traffic analysis.

A4-3 Although the City of Newport Beach currently requires ITE trip generation rates, prior to July of 2007, the City required the use of Newport Beach Traffic Analysis Model (NBTAM) trip generation rates for projects proposed within the City. The table below provides a comparison of NBTAM trip generation rates for a hotel to Institute of Transportation Engineers (ITE) trip generation rates for the same land use. Prior to July 2007, the NBTAM trip generation rates are higher than ITE rates, resulting in a more conservative forecast of project trip generation. Consistent with the ITE land use definition for a hotel, ancillary uses on the hotel property, including ballrooms, spas, and fitness centers, are accounted for in the standard per-room trip generation rate.



**Table 1
Comparison of NBTAM and ITE Trip Generation Rates for Hotel Land Use**

Source	Code	Land Use	Unit	Qty	Time Period	Enter		Exit		Total Rate	
						Rate	Trips	Rate	Trips	Rate	Trips
NBTAM	Hotel	Timeshare Units/Rooms	Room	76	AM	0.40	30	0.27	21	0.67	51
					PM	0.41	31	0.35	27	0.76	58
					Daily		331		330	8.70	661
ITE	Hotel (#310)	Timeshare Units/Rooms	Room	76	AM	0.34	26	0.22	17	0.56	43
					PM	0.31	24	0.28	21	0.59	45
					Daily		311		310	8.17	621

2. Response to Comments

- A4-4 Intersection Capacity Utilization methodology was used in the traffic impact analysis to be consistent with the City of Newport Beach standards. An analysis using the Highway Capacity Manual methodology has been completed for two intersections currently controlled by Caltrans: Coast Highway/Dover Drive and Coast Highway/Bayside Drive.

Table 2
Weekday AM Peak Hour Intersection LOS Summary

No.	Intersection	Existing (2006)		Without Project (2012)		With Project (2012)	
		Delay	LOS	Delay	LOS	Delay	LOS
1	Coast Highway and Dover Drive	44.1	D	48.7	D	49.0	D
2	Coast Highway and Bayside Drive	36.5	D	44.8	D	45.2	D

Table 3
Weekday PM Peak Hour Intersection LOS Summary

No.	Intersection	Existing (2006)		Without Project (2012)		With Project (2012)	
		Delay	LOS	Delay	LOS	Delay	LOS
1	Coast Highway and Dover Drive	43.5	D	60.7	E	61.1	E
2	Coast Highway and Bayside Drive	42.5	D	42.4	D	42.7	D

Caltrans has a target level of service (LOS) between LOS C and LOS D for state highway facilities. If an existing state highway facility or intersection is operating at less than the appropriate target LOS, the existing measure of effectiveness (MOE) should be maintained. The MOE is the existing LOS without the proposed project. As shown in the tables above, both the intersection of Coast Highway/Dover Drive and of Coast Highway/Bayside Drive are forecast to exceed the Caltrans target level of service in the Year 2012 Without Project condition. The increase in average vehicle delay forecast at each intersection with the Hyatt Newport project does not result in a change to the MOE at either intersection. Also, the change in control delay is insignificant (less than 1 second). No significant traffic impacts are identified at either intersection based on Caltrans guidelines.

- A4-5 Comment acknowledged. The City of Newport Beach will continue to notify the Department of Transportation of projects that have the potential to impact State Transportation Facilities.

2. Response to Comments

Letter A5 – Airport Land Use Commission of Orange County (1 page)



March 28, 2008

AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: DEIR Comments on the Hyatt Regency Newport Beach Expansion

Dear Mr. Murillo:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Newport Beach Hyatt Regency Expansion Project in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)*.

As specified in the DEIR the proposed project site is within the Federal Aviation Regulation (FAR) Part 77 Notification Area for John Wayne Airport (JWA). In the Hazards and Hazardous Materials section of the DEIR it states that projects within the JWA Height Restriction Zone and the JWA Airport Obstruction Imaginary Surfaces Zone trigger specific notification requirements for buildings exceeding 200 feet above ground level, and for construction of greater height than an imaginary surface extending outward and upward at a slope of 100 to 1 for a distance of 20,000 feet from the nearest point of the nearest runway. The DEIR should further discuss if the proposed project penetrates the Height Restriction Zone for JWA.

A5-1

The DEIR has identified the site ground elevation ranging from 17' to 70' above mean sea level (AMSL), and has identified the highest point of the project (the finial) at 62'6" above ground level. However, the DEIR should also specifically identify the elevation of this finial in terms of elevation AMSL (ground elevation plus structure elevation) in order to determine if any obstruction imaginary surfaces are penetrated.

On Page 5.9-25 of the DEIR you refer to JWA as an international airport. Currently JWA provides only domestic travel. Please delete any references to JWA being an international airport.

A5-2

The Land Use and Planning section of the DEIR states that the proposed project does not require a general plan or specific plan amendment or the adoption or approval of a zoning ordinance or building regulation. As correctly stated in the DEIR for cities consistent with the *JWA AELUP*, proposed projects that do not require a general plan or specific plan amendment or the adoption or approval of a zoning ordinance or building regulation are not required to refer projects to ALUC for Consistency review. Referrals are accepted on a voluntary basis.

A5-3

Thank you for the opportunity to comment on the proposed project. Please contact Lea Umnas at 949.252.5123 or via email lumnas@ocair.com if you require additional information.

Sincerely,

Kari A. Rigoni
Executive Officer



2. Response to Comments

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2. Response to Comments

A5. Response to Comments from the Airport Land Use Commission, Kari A. Rigoni, Executive Officer, dated March 28, 2008.

- A5-1 As shown on Figure 1, *Imaginary Surface Analysis*, in Section 3, *Revisions to the Draft EIR*, the John Wayne Airport (JWA) Imaginary Surface Zone is established by extending an imaginary surface outward and upward at a slope of 100:1 for 20,000 feet from the nearest runway. As shown, the project site is approximately 18,170 linear feet from the south end of the runway. The imaginary surface over the project site is 237.8 feet above mean sea level (amsl). As noted in this comment, the finial of the proposed ballroom would be the tallest structure on the site, at 62.5 feet above ground level. Due to the topographic contours of the site, however, Timeshare Building TS-3 would be the highest structure on the site, at a height of 102.3 feet amsl. Project improvements, therefore, would not penetrate the JWA Obstruction Imaginary Surface of 237.8 feet and proposed improvements would not require notification to the Airport Land Use Commission.
- A5-2 The reference to JWA as an “international” airport is deleted by means of this Final EIR. Please also see Section 3.2 of this Final EIR, *DEIR Revisions in Response to Written Comments*.
- A5-3 Comment acknowledged. The project would not require a General Plan or Specific Plan Amendment, or any change to a zoning or building regulation. Also, as detailed in Response A5-1, proposed improvements would not penetrate the JWA Obstruction Imaginary Surface. Project implementation therefore would not require referral to the Airport Land Use Commission for consistency review.



2. Response to Comments

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2. Response to Comments

Letter A6 – Department of Toxic Substances Control (4 pages)

	Department of Toxic Substances Control	
 Linda S. Adams Secretary for Environmental Protection	Maureen F. Gorsen, Director 5796 Corporate Avenue Cypress, California 90630	Arnold Schwarzenegger Governor
March 28, 2008		
Mr. Jaime Murillo Associate Planner City of Newport Beach Planning Department 3300 Newport Boulevard Newport Beach, California 92663 jmurillo@city.newport-beach.ca.us		
SITE-SPECIFIC STUDY OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR HYATT REGENCY NEWPORT BEACH EXPANSION (SCH# 2006121052)		
Dear Mr. Murillo:		
The Department of Toxic Substances Control (DTSC) has received your Revised Draft EIR document for the above-mentioned project. As stated in your document: "The proposed project would include 88 new timeshare units within seven buildings, a timeshare clubhouse, a new 800-seat ballroom, a new spa facility, a new housekeeping and engineering building, and a new two-level parking garage. Implementation of the proposed project would require the demolition of 12 villas, the 3,190-square-foot Terrace Ballroom, and the engineering and maintenance building. Additionally, the existing nine-hole golf course would be removed to accommodate the new timeshare units, parking areas, drive aisles, and other hardscape and landscape. The proposed project would also require the removal and reconfiguration of a recreational courtyard located in the center of the main hotel complex, and associated hotel parking areas, hardscape, and landscape."		
DTSC has comments as follows:		
1.	The draft EIR should contain a list of federal, state and local databases that were searched regarding the project and surrounding areas and the number of listings identified. The search distance selected for assessment should also be included.	A6-1
2.	The draft EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight.	A6-2
 Printed on Recycled Paper		



2. Response to Comments

Mr. Murillo
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| 3. | If the subject property was previously used for agriculture, or if weed abatement occurred, onsite soils could contain pesticide or herbicide residues. Proper investigation and remedial action may be necessary to ensure the site does not pose a risk to the future residents. | A6-3 |
| 4. | All environmental investigations, sampling and/or remediation should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous waste cleanup. The findings and sampling results from the subsequent report should be clearly summarized in the EIR. | A6-4 |
| 5. | Proper investigation, sampling and remedial actions, if necessary, should be conducted at the site prior to the new development or any construction, and overseen by a regulatory agency. | A6-5 |
| 6. | If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a "Border Zone Property". | A6-6 |
| 7. | Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. | A6-7 |
| 8. | If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If so, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. | A6-8 |
| 9. | If hazardous wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (818) 551-2171 to initiate pre application discussions and determine the permitting process applicable to the facility. | A6-9 |

2. Response to Comments

Mr. Murillo
March 28, 2008
Page 3

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|-----|---|-------|
| 10. | Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA. | A6-10 |
| 11. | If the project plans include discharging wastewater to a storm drain, you may be required to obtain a wastewater discharge permit from the overseeing Regional Water Quality Control Board. | A6-11 |
| 12. | The project construction may require soil excavation and soil filling in certain areas. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, properly dispose of it rather than placing it in another location. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project proposes to import soil to backfill the areas excavated, proper sampling should be conducted to make sure that the imported soil is free of contamination. | A6-12 |
| 13. | If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight. | A6-13 |
| 14. | If structures on the Project Site contain potentially hazardous materials, such as; asbestos-containing material, lead-based paint, and mercury- or PCB-containing material, such materials should be removed properly prior to demolition, and disposed of at appropriate landfills or recycled, in accordance with the regulatory guidance provided in California Code of Regulations (CCR) and following the requirements of the Universal Waste Rule (40 CFR part 9). | A6-14 |

If you have any questions regarding this letter, please contact Ms. Tong Qiao, Project Manager, at (714) 484-5470 or at "tqiao@dtsc.ca.gov".

Sincerely,



Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: See next page



2. Response to Comments

Mr. Murillo
March 28, 2008
Page 4

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

CEQA # 2075

2. Response to Comments

A6. Response to Comments from the Department of Toxic Substances Control, Greg Holmes, dated March 28, 2008.

- A6-1 As referenced on page 5.6-7 of the DEIR, based on an environmental database report prepared by GeoSearch, the project is not on a site that is included on a list of hazardous materials sites. The complete GeoSearch Radius Report (dated 11/20/06) is included as DEIR Appendix G, and includes a list of the databases searched and the search radii used.
- A6-2 No releases of hazardous substances that would require investigation and/or remediation have been identified at the site.
- A6-3 DTSC's agricultural guidance document applies only to school sites. In addition, as described in the DEIR, agricultural operations at the project site ceased prior to 1947, and DTSC guidance does not require sampling for organochlorine pesticides at sites that ceased operations prior to 1953. Based on the nature of the historical agricultural operations as described in the DEIR, no significant impact is anticipated.
- A6-4 Please see Response A6-2.
- A6-5 Please see Response A6-2.
- A6-6 Based on the environmental databases consulted (as described in the DEIR and detailed in DEIR Appendix G), no hazardous waste disposal sites were identified within 2,000 feet of the project site.
- A6-7 The project shall comply with applicable regulations to protect human health and the environment during construction activities. Applicable hazardous materials regulations are summarized in DEIR Section 5.6.5. Please also see response A6-2.
- A6-8 Comment acknowledged.
- A6-9 Should hazardous wastes be generated, they would not be stored in tanks or containers for more than 90 days. In addition, they would not be treated or disposed of on-site.
- A6-10 Please see Response A6-9.
- A6-11 Project plans do not include wastewater discharges to storm drains.
- A6-12 Please see Response A6-2.
- A6-13 Please see Response A6-2.
- A6-14 The DEIR acknowledges the potential for release of hazardous materials, including asbestos and lead-based paint (see Impact 5.6-1, DEIR page 5.6-7). Regulatory requirements for hazardous materials with which the project applicant must comply are detailed under DEIR Section 5.6.5, *Existing Regulations*.



2. Response to Comments

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2. Response to Comments

Letter A7– City of Irvine (3 pages)



Community Development www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575 (949) 724-6000

CITY OF NEWPORT BEACH
OCT 22 2008
RECEIVED BY
PLANNING DEPARTMENT

October 22, 2008

David Lepo, Planning Director
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: Draft Environmental Impact Report for the Proposed Expansion of the Hyatt Regency Newport Beach

Dear Mr. Lepo:

The City of Irvine has had the opportunity to review the draft Environmental Impact Report and the Hyatt Newporter Parking Review prepared in support of the proposed expansion to the Hyatt Regency Newport Beach. We appreciate this opportunity to comment on projects in adjacent jurisdictions that have the potential to result in impacts to the City of Irvine.

The City was offered this opportunity for review earlier this year. That review resulted in a letter dated March 4, 2008 indicating that the City had no comments on the project at that time. At this time, after further detailed review, the City has concluded that there are several substantive issues that need to be addressed before taking any action on this request or making any recommendation on the environmental documentation. The City would suggest that without making changes to the draft Environmental Impact Report as outlined by the comments provided below, the analysis contained in that document is flawed. We respectfully request that these comments be forwarded to your Planning Commission to be considered as a part of their deliberations on this project, and be made a part of the formal public record.

The following are the City of Irvine's Comments on Chapter 5-11, Transportation and Appendix L to the draft Environmental Impact Report.

1. The study area boundary consists of 10 intersections. At the intersection of Jamboree/San Joaquin Hills Road, which is at the boundary of the study area, the trip distribution shows that 40 percent of the project traffic extends north on Jamboree. At the intersection of MacArthur/Coast Highway, the trip distribution shows that 10 percent of the project traffic extends to the north on MacArthur. This means that 50 percent of the project traffic comes from, or is headed north out of the study area boundary. The intersection of Jamboree/MacArthur is two and a half

A7-1



2. Response to Comments

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miles from this intersection. This intersection has been forecast to operate at unacceptable levels of service in future horizon years in other studies. Newport Beach has identified physical improvements for the intersection of Jamboree/MacArthur; however, they are not yet fully funded. The study area boundary will need to be expanded to include the intersection of Jamboree/MacArthur.

A7-1
(cont'd.)

2. Explain why was TRAFFIX used to provide the ICU's instead of NBTAM to forecast the traffic volumes.

A7-2

3. This traffic study was done with a methodology that compares the trip generation of the Hyatt from the previously approved 1992 Circulation Improvement and Open Space Agreement (CIOSA) that included an expansion of 68 rooms, with the trip generation of this project that is a net increase of 76 rooms.

A7-3

Previous comments made by attorneys representing Newport Beach, to the City of Irvine, on numerous traffic studies and environmental documents, have taken issue with similar methodology, wherein the trip generation of a project's entitled uses was compared with the proposed intensity of the current project. Newport Beach needs to further evaluate the project's full impacts of the 76 net new units (88 new timeshare units minus the 12 existing villas that are being removed) and not provide a comparison between the "phantom trips" generated by some un-built future intensity and the proposed project.

A7-4

4. The City understands that the Hyatt has previously contributed its fair share to the CIOSA improvements. Explain why an expansion to any of the 11 CIOSA projects would not be subject to a proportional increase in their fair share contributions to CIOSA.

5. Revise the traffic analysis to provide an existing plus project scenario evaluation for CEQA compliance purposes.

A7-5

6. Revise the traffic analysis to provide a separate evaluation of the project's contribution without considering the cumulative projects (those approved and not yet constructed projects and the reasonably foreseeable unapproved projects) so that the project's impact to intersection ICU's can be isolated from these other developments.

A7-6

7. Even though a small expansion at this hotel does not trigger the threshold for an impact, the cumulative projects do contribute to forecast deficiencies at several intersections. Does the City of Newport Beach have a program for addressing these forecast deficiencies that are not attributed to any specific projects?

A7-7

8. Page 1 of the Traffic Study, Table ES.1: The year 2012 should be provided on the "without project" and "with project" columns to correspond to those shown in Table 4.4, and to explain why the ICU's are higher than the existing year.

A7-8

2. Response to Comments

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In addition to these comments, if there was a Response to Comments document prepared as a component of the draft Environmental Impact Report for this project, we would appreciate receiving a copy of that document electronically.

The City looks forward to a complete and comprehensive response to the comments contained in the letter. The City also expects that the draft Environmental Impact Report will be dutifully and responsibly updated and revised to address these issues in order to achieve some measure of compliance with CEQA. We are happy to make ourselves available for further consultation on these matters should you require further clarification.

Sincerely,



TIM GEHRICH, AICP
Manager of Development Services

cc: City of Newport Beach Planning Commission
Douglas Williford, Director of Community Development
Manuel Gomez, Director of Public Works
Kerwin Lau, Project Development Administrator
Sun-Sun Murillo, Supervising Transportation Analyst
Timor Rafiq, Rafiq and Associates
Diane Jakubowski, Rafiq and Associates
Steve Weiss, Principal Planner
Michael Philbrick, Senior Planner



2. Response to Comments

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2. Response to Comments

A7. Response to Comments from the City of Irvine, Tim Gehrich, dated October 22, 2008.

Although this letter dated October 22, 2008 was received after the close of the public review period, the City of Newport has decided to respond to their comments.

- A7-1 The City of Newport Beach has received approximately \$ 2.8 million from Measure M and GMA 8 for the construction of improvements to the intersection of Jamboree @ MacArthur. These planned, and fully funded, improvements will provide for an acceptable level of service at the intersection. If the assumed project trip distribution is carried out to the Jamboree/MacArthur intersection, it is anticipated that approximately 25% of project trips would approach the intersection via Jamboree Road and 5% of project trips would approach via MacArthur Boulevard. In the AM peak period, these percentages would result in a forecast of nine inbound trips and six outbound trips. In the PM peak period, these percentages would result in a forecast of nine inbound trips and eight outbound trips. This is a minimal number of trips that would not be anticipated to result in a significant impact at this intersection, given the implementation of the fully funded, planned improvements.
- A7-2 TRAFFIX is a computer program used to calculate ICU values. It is not a traffic forecast model, and was not used as one in this study. NBTAM is the City of Newport Beach's traffic model used to forecast future traffic volumes. However, NBTAM was not used to determine the volumes because the project has a short term future horizon year (Year 2011) for completion. Consistent with City of Newport Beach standards, the traffic analysis was completed for one year after project completion, Year 2012. The use of an annual growth factor of 1% for traffic volumes was determined to be a reasonable methodology to forecast Year 2012 ambient traffic volumes. This methodology is permitted under the City of Newport Beach Traffic Phasing Ordinance Traffic Impact Analysis Guidelines.
- A7-3 The traffic study does provide a comparison of the proposed project's trip generation with the trip generation of the previously approved 1992 CIOSA project. However, this comparison is only provided to show consistency between the currently proposed project and the proposed CIOSA project under the City of Newport Beach's Traffic Phasing Ordinance. The consistency analysis was completed to compare the previously approved CIOSA project (68 rooms) with the proposed project (76 rooms). While there is a difference in the total number of rooms, there is a similar number of trips between the two projects because there have been refinements and updates in the trip generation rates in NBTAM during the last 14 years. The traffic impact study analyzes the full impact of the proposed project using the full trip generation information presented in Table 5.1 (page 28) of the traffic study.
- A7-4 As noted in the previous response, the traffic impact study includes a comparison of the trip generation for the current proposed project with the project approved as part of CIOSA. Because the proposed project does not generate new additional trips, the Hyatt project is not conditioned for an increase in their fair share fee. If any of the 11 CIOSA projects were to propose an expansion, and if that project generated new trips beyond the previously approved amount, that project could be conditioned to pay the appropriate additional fair share fees.



2. Response to Comments

- A7-5 The traffic study analyzes existing conditions and future conditions with and without the project. Future conditions include both approved projects and reasonably foreseeable projects in the baseline. The analysis clearly quantifies the project-specific impact on each study intersection. As shown on Table ES-1 and ES-2 for AM and PM peak conditions, respectively, the increase in V/C due to project implementation is shown for each intersection. As shown, none of these increases result in changing the level of service of the subject intersection in the year 2012. Moreover, as explained in the traffic report (Section 4.0, page 15), the analysis assumed that the lane geometries for each of the 10 study intersections in Year 2012 will be the same as existing conditions. Therefore, analysis of the future year does not assume any improvements that are not in place under existing conditions.

As shown in Table ES-1, none of the intersections fall to an unacceptable LOS in the AM peak hour in 2012. Four intersections, however, would decline to an unacceptable LOS during the peak hour due to cumulative traffic in 2012 (see Table ES-2). The following table shows the impact of project-related trips only (no cumulative growth) on the existing condition level of service for the subject intersections in the PM peak:

No.	Intersection	Existing		Increase in V/C Due to Project	Existing + Project Conditions		Impact
		V/C	LOS	V/C	V/C	LOS	
1	Coast Highway and Dover Drive	0.779	C	0.001	0.780	C	No
3	Coast Highway and Jamboree Road	0.771	C	0.006	0.777	C	No
6	Coast Highway and MacArthur Boulevard	0.756	C	0.001	0.757	C	No
7	Jamboree Road and San Joaquin Hills Road	0.828	D	0.002	0.830	D	No

As shown by the Existing plus Project results in the above table, the proposed project would not significantly impact any of the study intersections.

- A7-6 The traffic impact study analyzes and quantifies the project's impact to intersection ICU's as shown in Table ES-1. Analyzing a future condition without the cumulative projects would not be consistent with the City of Newport Beach Traffic Phasing Ordinance Traffic Impact Analysis Guidelines and would not provide a realistic assessment of future traffic conditions. As noted in Response A7-5, the analysis does isolate the specific increase in V/C due to the proposed project. Moreover, the analysis summarized in the table provided in Response No. 5 confirms that project-related traffic alone would not lower the level of service of any of the study intersections to an unacceptable LOS.
- A7-7 The City of Newport Beach's Traffic Phasing Ordinance sets forth a methodology for projects to contribute their fair share to the construction of identified traffic mitigation measures.
- A7-8 This change will be incorporated into Table ES-1.

2. Response to Comments

Letter O1 – Environmental Quality Affairs Committee (9 pages)

18 March 2008

To: Jaime Murillo, Associate Planner
City of Newport Beach Planning Department

From: Environmental Quality Affairs Committee

Subject: Comments on Hyatt Regency DEIR

Reference: Hyatt Regency Newport Beach expansion Environmental Impact
Report SCH NO. 2006121052, February 2008.

EQAC is pleased to submit the following comments on the referenced DEIR in hopes that these comments will help to make the final EIR as complete and responsive as possible. Our comments are presented in the order that items appear in the DEIR with appropriate paragraph and page references.

1. Executive Summary

Pg. 1-13, Table 1-1, item 5.4-1 states that “Limited testing of the new ballroom shall be conductedto avoid construction delays caused by unanticipated finds.....” Is this in addition to the test pits discussed earlier? Why does the ballroom area have to be treated differently than the rest of the project?

O1-1

Pg. 1-24, Table 1-1, items 5.11-6 states that the “Parking Management Plan shall clearly identify how and where the 467 necessary parking places will be accommodated on-site during construction”. However, there is no mention of how the Parking Management Plan will deal with the construction crew parking. How will this be accommodated?

O1-2

2. Introduction

Pg. 2-2, Section 2.3.2 lists 13 environmental factors that have been identified as potentially significant. However, only 10 of these have been summarized in Table 1-1, (pp. 1-7 to 1-24). It appears that 5.9, Noise, is probably on pg. 1-21 which is missing. The other 2 – Agriculture and Utilities and Service Systems – have been left out completely. Please provide pg. 1-21 and explain the 2 other deletions.

O1-3

3. Project Description

Pg. 3-9, Table 3-1 does not show any reduction of available parking for the hotel (785 spaces). This may be true at completion, but a significant number of these spaces will be rendered unavailable/unusable during the demolition/construction phases (equipment storage, construction parking, material storage etc.). What provisions are included to assure continuous availability of the needed 785 hotel parking spaces?

O1-4



2. Response to Comments

Pg. 3-21 Para.1 describes the construction hours and discusses that there will be nighttime construction for approx 4-6 weeks. Does that time include rain days? Is there a way to do the work during the day so the noise and nighttime glare do not disturb the neighbors? Why? Will the nighttime construction occur simultaneously with the daytime construction? Will that mean that the area may have noise, air quality problems, glare and traffic problems for 18 + hours of the day?

O1-5

Pg. 3-27, Fig. 3-10, Conceptual Fuel Modification Plan, shows TS-1 (time-share bldg. 1) has a corner of the bldg intruding into the blue zone- Special Treatment Zone- environmentally sensitive area adjacent to coastal sage scrub habitat. Is it allowable to build the building that close to the protected habitat? How large a buffer zone is needed to comply with the Coastal Commission?

O1-6

Page 3-35: The table leads the reader to believe that there is only one issue that the Coastal Commission has to act on. The DEIR needs to address the issue of the timeshares within the Coastal zone and the steps needed for approval.

O1-7

5.1 Aesthetics

Has the potential of parking lot lights on all levels of the proposed parking structure been considered from the view point of Sea Island residential community and the ESHA? It seems possible that the increased elevation of the proposed parking level may create a nighttime nuisance for the residents of Sea Island.

O1-8

The EIR should analyze potential light and glare impacts from nighttime construction in Jamboree Road.

O1-9

5.2 Air Quality

Page 5.2-16, Paragraph 1: The demolition and subsequent construction of a major portion of the existing site has the potential to cause a significant amount of "Fugitive Dust," including dust and particulates from demolition of buildings and removal of grass from the golf course. This matter may include asbestos, chemicals, allergens or other harmful substances. Especially at risk are senior citizens living at the Bay View Landing apartment complex, who are sensitive receptors. In addition to this, a large number of individuals/groups routinely exercise very close to the project area, via Back Bay Drive (walkers, joggers, bike riders, etc.). On- site tennis courts, local walking trails, bike paths and the Back Bay Waterway are also busy with people exercising. Depending on the wind direction and wind speed, the "Fugitive Dust" and other airborne debris/ matter could have a negative impact on those individuals. Residents of Bay View Landing, Sea Island, Harbor Cove, Villa Point, and guests and/or visitors at The Dunes could be subject to these substances. The EIR should analyze the impacts of the release of these substances, and propose mitigation measures, as appropriate.

O1-10

In addition, the use of diesel powered construction equipment at or near the project is a concern. What is the limitation on idling diesel equipment?

O1-11

<p>Page 5.2-16, Paragraph 4: Hyatt will be removing a large amount of grass (removal of the golf course), and other mature vegetation. Concrete and buildings will be taking the place of a large section of the golf course; this will result in a lack of vegetation and will have an increase of the global warming footprint of the project. The EIR should analyze the effect of removing vegetation and replacing it with new buildings.</p>	<p>O1-12</p>
<p>Page 5.2-18, Table 5.2-9, Footnote 2, last bracketed sentence: The EIR should explain how 24 inches of freeboard is equivalent to covering all loads.</p>	<p>O1-13</p>
<p>Page 5.2-18, Section – Impact 5.2-4: The EIR should identify routes for ingress and egress of all demolition and construction related traffic, assess the impacts and identify mitigation measures as necessary, with particular emphasis on minimizing impacts on Back Bay Drive.</p>	<p>O1-14</p>
<p>No mention is made regarding the emissions control from the new 800-seat ballroom. Is the smoking area near the ballroom going to have sufficient filtration to prevent second hand smoke from escaping to the surrounding area?</p>	<p>O1-15</p>
<p>5.3 Biological Resources</p>	
<p>Pg. 5.3-7, Figures 5.3-2 to 4 would be more easily read if they were transparent overlays to the site map. It appears that the new timeshare buildings (fig 5.3-4) invade sensitive eco/ESHA areas (as shown in Fig 5.3-3, Gnatcatcher Observed Locations). The EIR should analyze the biological impacts of proposed building locations.</p>	<p>O1-16</p>
<p>Fig 5.3-4 does not identify specific plantings that will be placed in the area, nor does it adequately describe what the area will contain after completion of the project. It appears that sensitive eco areas were disturbed with the original construction of the hotel and golf course.</p>	<p>O1-17</p>
<p>The outline for dealing with the area and creating the "buffer" with sensitive areas is not specific enough. If one were to use magnifying glass on figure 5.3-4 to read the fuel modification zones description, it would appear that the applicant does not intend to do an effective job in this area at all. Too broad, non-specific and ineffective are words that would adequately describe the entire plan for dealing with biological concerns on the project. The EIR should explain why a biologist should not be engaged to design, monitor and implement a mitigation and restoration plan, or at least design an effective "buffer" between construction and nature.</p>	<p>O1-17</p>
<p>Disturbing the coastal sage is not the only issue. Much of the open space will be lost to the increased size of the buildings and hardscape. A biologist (not a biological monitor) should be an integral part of the design and monitoring team on an ongoing basis during the project.</p>	<p>O1-18</p>
<p>The applicant has a real opportunity to create and maintain an effective ecological zone, restore native species to this area and mitigate the effects of the increased square footage of the hotel and timeshare buildings. This would not only benefit the local community, but the hotel could emphasize to its guests the operator's sensitivity to the local ecology.</p>	<p>O1-19</p>



2. Response to Comments

5.5 Geology and Soils

Pg. 5.5-7 states that "Groundwater was encountered in numerous borings excavated during the geotechnical investigation of the project site. According to the geographical investigation, the historical depth in the project area is approximately 10 feet below grade surface (bgs). Groundwater was encountered in one of the boring excavations at a depth of approx. 7 feet bgs in the western portions of the hotel's main parking area, corresponding to a surface elevation of approx 13.5 feet above msl. Fluctuations of the groundwater level, localized zones of perched water, and soil moisture content should be anticipated during and following the rainy season or periods of locally intense rainfall or storm water runoff. Irrigation of landscaped areas can also cause fluctuation of local groundwater levels."

O1-20

However, the Project Description on page 3.15, Figure 3-6 shows timeshare buildings with subterranean parking. Where are the mitigation measures that describe what will be done if/when they encounter groundwater during the excavation phase?

Are there special construction techniques that will be utilized in the building of the hotel's main parking area where they have already encountered groundwater at 7 feet bgs? Where are the mitigation measures they will implement for this area and others?

5.6 Hazards and Hazardous Materials

The Hazard & Hazardous Materials section begins at page 5.6-1 and ends at page 5.6-16. Pages 5.6-1 through 5.6-6 are devoted to a "review" of applicable federal and state "laws and programs." Then the DEIR identifies eight situations ("thresholds") that might cause a significant effect on the environment (*see* page 5.6-6). These are taken from CEQA guidelines, not from any other, local or regional standard, source or authority. The eight CEQA situations are labeled H-1 through H-8.

O1-21

On Impacts H-1, H-3, H-6, and H-7, the DEIR is incomplete and needs more data

As the first matter of concern, the DEIR dismisses any discussion of H-1, H-3, H-6, and H-7 on the basis that the Initial Study "substantiates that impacts associated with the following thresholds would be less than significant." The problem with this avoidance of any discussion on the impacts caused by H-1, H-3, H-6 and H-7 conditions is that the Initial Study did not conclude or substantiate that impacts would be "less than significant." On the contrary, the Initial Study stated the following:

Regarding H-1, the Initial Study offered the conclusion (not any data or information of any kind) that "normal cleaning solvents and landscaping products" would be used. And it states that use "of these substances would be minimal" and the use would be "subject to approval by the Newport Beach Fire Department" as if to say therefore it is not a risk. (*see* p. 42 of Initial Study, Appendix A). The use of "minimal" is conclusory and merely someone's opinion - no standards by which the measure of "minimal" was reached are provided in the DEIR.

O1-22

More importantly, the analysis addresses only post-demolition and post-development conditions. Construction will be going on for a few years, during which time there will, be regular handling

2. Response to Comments

<p>and transport of hazardous materials. There is no discussion of the potential impact, and therefore no discussion of mitigation measures.</p>	<p>O1-22 (cont'd)</p>
<p>Regarding H-3, the Initial Study states that the closest school is "approximately" one mile away from the site and therefore "no mitigation measures are necessary." Although this particular CEQA example is limited to concerns regarding schools, the conditions during demolition and construction will not only affect children. They will affect all people in and around the site in that 1/4-mile parameter. Therefore, one must ask the question, what is being done to address the impact of "hazardous emissions" or the handling of "hazardous or acutely hazardous materials, substances, or waste" within that 1/4 mile radius. The other "CEQA thresholds" do not specifically address such conditions.</p>	<p>O1-23</p>
<p>Regarding H-7, the Initial Study did not provide any analysis of the impacts under the H-7 threshold. And there are several deficiencies in what little analysis was provided. First, the Initial Study states that, "Project review by the Nbfd is required. (see p. 43 of Initial Study, Appendix A). Yet this was never addressed in the DEIR. Second, the Initial Study refers to the "Newport Beach Emergency Management Plan" of 2004, and based upon that plan they do not "expect" the proposed project to "interfere" with the emergency response plans. However, by the Initial Study's own admission, the Emergency Response Plan is updated every three years, which means the Study was based on a city-wide plan that is already outdated by over a year.</p>	<p>O1-24</p>
<p>Further, there is no discussion in there about the impact caused during the years of demolition and construction involving increased traffic and regular road blockage, to name but a few examples of conditions that would directly affect emergency response and emergency evacuation plans. Again, more information is needed.</p> <p><u>On Impacts H-2 and H-8, the DEIR is incomplete and needs more data</u></p> <p>Regarding H-2, the Initial Study states that, "further analysis in the EIR is necessary. Mitigation measures will be incorporated as needed." (see p. 42 of Initial Study, Appendix A). But then the DEIR does not provide a full analysis. The debris anticipated from the demolition activities is estimated to be in the range of 233 cubic yards of structural debris and 9,500 cubic yards of concrete, asphalt, and base material. According to the DEIR, the material will be "evaluated" for lead-based paint and ACM.</p> <p>The first comment is that an analysis of the impact makes no sense until the materials have been evaluated, which could have been performed before the DEIR. The DEIR specifically states that "prior to demolition of the site, building materials will be carefully assessed for the presence of ACM..." and lead-based paint..." (see p. 5.6-13 of DEIR). So, instead of making guesstimations as to the levels and basing conclusions regarding mitigation measures on those guesstimations, why not require the hard data now so as to maximize knowledge on the hazardous materials that are going to affect the community?</p> <p>Most importantly, the DEIR cites regulations concerning how the hazardous materials are to be handled, and based thereupon reaches the conclusion that no mitigation measures are needed. But there is no discussion of the details of the rules, the enforcement, the consequences of noncompliance, and no discussion of whether they can be complied with at this project -- and if not, what would be done to mitigate the impact for failure of compliance. In summary, the H-2 discussion is missing vital information on the issue of mitigation.</p>	<p>O1-25</p>



2. Response to Comments

Regarding H-8, the Initial Study states that, "no impact from wild land fires would occur and no mitigation measures are necessary." The basis for that conclusion is that the City's General Plan Update classifies this area as a "low-to-no fire hazard." By the time of the drafting of the EIR, however, "moderate" hazards of wildfires were recognized. Despite this acknowledgement, the DEIR analysis is deficient insofar as it consists simply of a series of quoted passages from the Newport Beach Fire Protection Plan and relies on them as satisfying any need for mitigation. But the DEIR does not affirmatively state that the FPP passages comprise everything the City requires on this issue, and therefore the accuracy and totality of this analysis are questionable.

O1-26

5.7 Hydrology and Water Quality

Pg. 5.7-17, Para. 4: The DEIR states that, "the City's storm drain system includes mechanisms that minimize flood hazards resulting from high-tide events". Which if any of these mechanisms are located within this project? Will these mechanisms be included in the new storm drain system being proposed?

O1-27

Pg. 5.7-21, Para. 7 states, "The CLUP of the City of Newport Beach LCP was prepared in accordance with the California Coastal Act of 1976, approved by the California Coastal Commission in Oct. 2005 and adopted in Dec. 2005". This statement runs contrary to the statement below * made by the Coastal Commission on January 16, 2007 and leads the reader to believe that all necessary permits have been acquired and that the process is complete. Please explain the discrepancy.

* "The recently updated and certified 2005 City Of Newport Beach Coastal land Use Plan (LUP) does not specifically allow for limited use/fractional ownership "time share" units in the Visitor Commercial zone. Please be reminded that the CCC recognizes the certified Coastal Land Use Plan and not the City's General Plan for land use planning guidance within the coastal zone.....if such a proposal could be found consistent with Chapter 3 policies of the Coastal Act, the local government should prepare and submit an LUP amendment for (Coastal) Commission review and action. The proposed project will also require a coastal development permit from the (Coastal) Commission".

O1-28

Pg. 5.7-26 Table 5.7-3 Construction BMP's (Best Management Practices) Under Erosion Control EC-13 Polyacrylamide- Exactly what is this product? How will it be used? Should it be used in an area that is not only close to the Bay, but also an ESHA zone? (Wikipedia states that, "Some research indicates that polyacrylamide can degrade under normal environmental conditions, releasing acrylamide, a known nerve toxin")

O1-29

Pg. 5.7-28, para. 2 under Operational Phase- As proposed, the project would indirectly discharge into the upper Newport Bay via the MS4 at Back Bay Drive, owned and operated by the City of Newport Beach. Under the current Orange County MS4 Permit (municipal separate storm sewer system), no numerical effluent limitations are required for storm water discharges and no sampling or monitoring programs are required by the owner/developer. However, the long-term operation of the proposed project necessitates the implementation of post-construction BMP's to the maximum extent practicable to mitigate and abate pollutants that may compromise the Newport Bay's beneficial uses and water quality objectives.

O1-30

Does this mean that no construction mitigation measures are planned- only post-construction? It seems that demolition/construction phase mitigation is needed.

Pg. 5.7-33: Underground media filtration will be used in this project in Drainage Areas A, B, & C to provide treatment of sediment, nutrients, trash, oil, grease, etc.. Since this is not the only

O1-31

project of this type, is it not time for the City to set up a schedule for inspection of such filters to ensure they are being maintained properly? Does the City already have such a program? | O1-31 (cont'd)

The document needs to state that there will be no black asphalt used. | O1-32

5.8 Land Use and Planning

The Notice of Preparation (NOP) Initial Study, (IS,) received letters from the California Coastal Commission indicating, issues of concern that the staff (CCC) suggests should be addressed in the project EIR: | O1-33

1. The recently updated and certified 2005 City Of Newport Beach Coastal land Use Plan (LUP) does not specifically allow for limited use/fractional ownership “time share” units in the Visitor Commercial zone. The proposed project will also require a coastal development permit from the Commission. | O1-33

2. The proposed project is adjacent to the Upper Newport Bay Ecological reserve and would be required to meet the City of N.B. Coastal LUP policies for coastal resource protection(provide appropriate buffer areas and setbacks, shield and direct exterior lighting away to minimize impacts to wildlife, prohibit new development that would necessitate fuel modification within Environmentally Sensitive Habitat areas (ESHA, etc). | O1-34

Yet, when the reader goes to page 2.5, Table 2-1, NOP Comment Summary, they are taken to Section 5.3, Biological Resources, and 5.8, Land Use Planning only to find no answers to the above issues and comments.

The California Coastal Commission response to the NOP asks the following questions:

- 1. Is the proposed Project consistent with the Coastal Development Plan for this area? | O1-35
- 2. Is the proposed project consistent with the with the City CLUP plan for this area?

Are these questions clearly answered in the DEIR?

The proposed Project, inclusive of the time-share units, is not consistent with CLUP plan for this area. What is the status of the DEIR approval process if an amendment to the CLUP is required for the proposed project?

5.9 Noise

Pg. 5.9-25, Impact 5.9-5: paragraphs 4 & 5 indicated noise impacts for Palisades Tennis Club (PTC) up to 30 dBA in excess of ambient noise during demolition/construction phases which could last up to 2 years. | O1-36

The sound walls mentioned in 5.9.8 reduce dBA levels by only 5 to 6 dBA. The remaining noise levels would still be 24 dBA in excess of City allowable levels, and Impact 5.9-5 will remain Significant and Unavoidable.

These sound levels will certainly have a negative impact on PTC’s ability to act as a recreational and instructional facility, and on the entire adjacent community.



2. Response to Comments

The sound walls proposed as mitigation are really only sound blankets on fences. Are other more effective physical sound barriers being considered? What about multiple blanketed fences? Considering the magnitude of this problem and the long duration of demolition/construction phases, more effective sound barriers should be sought.

O1-36
(cont'd)

The mitigations in 5.9.7 are general, considering potential impact on surrounding residents, PTC, users of Back Bay and Newport Dunes. What additional planning measures have been considered, e.g. phasing of demolition/construction work, to mitigate these impacts?

5.10 Public Services

Pg. 5.10-1, Para 2- The Nbfd currently employs 146 full-time and 170 seasonal employees to provide 24-hour protection and response to the City's residents and visitors. More description of the additional 170 seasonal employees would be helpful to determine their effectiveness in response times.

O1-37

Para 3 – The paragraph starts with stating, “The Nbfd also handles incidents associated with hazardous materials”. DEIR needs to explain more fully what this statement means in the context of a hazardous material incident vs. emergency as stated below.

O1-38

It then ends with “In case of a hazardous materials emergency, Huntington Beach Fire Department or Orange County Fire Department is called” (It is officially called Orange County Fire Authority-not Department).

Since the Development is adjacent to the Bay, there could be an argument made for the necessity of a detailed plan of exactly what would happen if there was an accidental spill of a hazardous material into the bay, if not in this section, then somewhere in the DEIR, since all the mitigation measures are to be made available to the public.

O1-39

The Initial Study, IS, done December 2006, brings up on page 29, Environmental Checklist:

“XIV. Public Services. Would the project result in substantial adverse physical impacts associated with ... the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public service”. This was listed as Potentially Significant Impact. Yet under Executive Summary page 1-22 sec 5.10 Public Services this has been changed to less than significant with no mitigation measures necessary.

O1-40

The EIR should provide analysis demonstrating that the response times of both Fire and Police would not be impacted by the 23-month construction period, the lane closures for night construction, the approx 3500 truck trips x 2 trips per truck since the truck has to go in before it can go out, therefore approx 96 trips per day and 7000 total trips on very congested Jamboree Road?

5.11 Transportation and Traffic

Page 5.11-22, Paragraph 2, Last sentence: The DEIR must review the parking and queuing demand for events held at the new banquet/ball room.

O1-41

2. Response to Comments

Page 5.11-22, Table 5.11-7, 8 pm line item: Should read 358 and not 359, and should read 427 and not 426.

Page 5.11-22, Paragraph 4: Hyatt needs to address the issue of 127 parking spaces vs. the 140 spaces required by City of NB.

Page 5.11-22,23, Table 5.11-8:
8 am line item should be 105 & 22
10 am line item should be 77 & 50
3 pm line item should be 77 & 50
9 pm line item should be 124 & 3

Page 5.11-22,23, Table 5.11-9:
6 pm line item should be 580 & 332
7 pm line item should be 460 (ok) & 452

Page 5.11-24, Paragraph 1: This section points out the Jamboree Road closure for sewer improvements. The DEIR should analyze the traffic impact of this work at all hours and on the weekends.

Page 5.11-31, Section 5.11-6: The EIR should identify staging and parking locations for construction vehicles and equipment, and analyze the impacts on surrounding streets, including Jamboree Road, Back Bay Drive and Shellmaker Road.

9. Significant Irreversible Changes Due to the Proposed Project

Pg. 9-1, first bullet point, identifies a need for “ commitment of non-renewable energy resources and natural resources, such as lumber, steel.....” associated with the proposed project.

However, some of these negative impacts could be compensated by the implementation of proven, current “green building” principles including self-contained energy generation, use of environmentally friendly construction materials, water conservative plumbing etc. Are these concepts included in the architectural plans for the proposed project? Has the proponent considered application for some level of LEED (Leadership in Energy and Environmental Design) certification for the project?

Thank you for the opportunity to comment on this important project. We hope that the above inputs help in producing a better project for the developers as well as the surrounding community.

O1-41
(cont'd)

O1-42

O1-43

O1-44



2. Response to Comments

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2. Response to Comments

O1. Response to Comments from Environmental Quality Affairs Committee, dated March 18, 2008.

- O1-1 As described in Mitigation Measure 4-2, the preconstruction testing plan for cultural resources shall be implemented prior to the issuance of grading permits, but testing can be conducted during the same period as demolition activities. Since the existing ballroom would be demolished, the limited testing referenced for the ballroom to determine the potential for unanticipated finds is recommended to avoid delays. This is in addition to the test pits identified in the rest of this mitigation measure.
- O1-2 As detailed in DEIR Mitigation Measures 11-3 (see page 5.11-33), the City of Newport Beach will require the project applicant to submit to the City for approval a Parking Management Plan (PMP) that specifies the number and location of parking stalls that would be provided for hotel guests, employees, and construction employees during the construction of the proposed hotel improvements. The PMP will be required to demonstrate that sufficient parking (467 spaces) would be available on-site for all users during construction.
- O1-3 As noted by this commenter, the summary for Section 5.9, *Noise*, had a missing page (1-21) that was inadvertently left out of some of the DEIR copies during printing. Agricultural Resources and Utilities and Service Systems were topics that were determined not to have the potential for significant impacts in the Initial Study and therefore closed out from further study. These topics were erroneously listed under DEIR Section 2.3.2. Also note that the checkbox in the Initial Study checklist (DEIR Appendix A) for question XVI b) is erroneously checked as Potentially Significant, although the text correctly concludes and supports that this impact would be less than significant. For reference, the complete Summary Table (Table 1-1) is reproduced in Section 3, *Revisions to the Draft EIR*. Additionally, this section includes a correct list for DEIR Section 2.3.2 and a corrected Initial Study checklist for question XVI b).
- O1-4 Please see Response O1-2.
- O1-5 No construction activities would occur at night. A DEIR reference to potential nighttime construction on page 3-21 has been deleted (see Section 3, *Revisions to the Draft EIR*).
- O1-6 Figure 3-10 on page 3-27 in the DEIR depicted a small corner of the building within the environmentally sensitive habitat area (ESHA). This has been corrected. See Figure 2, *Vegetation and Fuel Modification*, in Section 3, *Revisions to the Draft EIR*, as the building has been located a minimum of 50 feet from the edge of the coastal sage scrub habitat that is presumed to be an ESHA. The minimum 50-foot setback complies with the City's Coastal Land Use Plan (CLUP) for minimum buffer distances between development and potential ESHA areas. The Special Treatment Zone would be planted with native vegetation that meets fire-protection goals and would serve as an appropriate buffer and transition zone to ensure the long-term functioning of any potential ESHA areas. The 50-foot setback from the building edge is the important requirement. Extension of the Special Treatment Zone around the margins of the building would only further enhance the overall functioning of the habitat and is consistent with the City's CLUP and therefore consistent with the Coastal Act.



2. Response to Comments

- O1-7 The table on DEIR page 3-35 is a summary of discretionary approvals by responsible agencies required for the project. DEIR Section 4.4.8, *Applicable Local Plans*, includes a description of the City's Coastal Land Use Plan. Additionally, DEIR Section 5.8, *Land Use and Planning*, includes a more detailed description of the City's CLUP and a consistency evaluation with its policies. Please also refer to the responses to the Coastal Commission's comment letter on the DEIR (Letter A2). As noted in response to that letter, an amendment to the CLUP would not be required for implementation of this project.
- O1-8 The proposed lighting plan and the parking structure elevations are shown in Figures 3 and 4 of this FEIR, respectively. Lighting is subject to stringent City requirements and review as detailed under *City of Newport Beach Standard Conditions* on DEIR page 5.1-35. To clarify the maximum light spillage that would be allowed, the standard condition for this project has been refined to specify that spillage would not exceed one foot-candle at the property line. This refinement is included in Section 3, *Revisions to the Draft EIR*. A detailed photometric study has been prepared. As shown in this study, because the light fixtures have been designed as full cut-off fixtures, there would be no horizontal light spillage as a result of project implementation. Any revisions to the photometric study will be included with the final lighting plan, required prior to issuance of a building permit. Additionally, prior to occupancy, the lighting improvements would be inspected by City enforcement personnel to confirm that lighting levels do not exceed requirements and the approved lighting plan.
- The project lighting has been designed to ensure that spillage into areas of adjacent open space, including ESHAs would be minimized or eliminated. Mitigation Measure 3-3 requires that lighting be directed away from sensitive habitat areas and be of the lowest intensities possible while still providing for public safety, and that a qualified biologist review the lighting plan prior to construction to ensure that potential impacts on ESHAs and the California gnatcatcher are minimized to the maximum extent practicable.
- O1-9 No construction activities would occur at night. A DEIR reference to potential nighttime construction on page 3-21 has been deleted (see Section 3, *Revisions to the Draft EIR*).
- O1-10 Impact 5.2-5 on page 5.2-22 of the DEIR evaluates the potential for sensitive receptors 200 feet from the project site—including the residents of the Bay View Landing community, Sea Island community, Harbor Cove, and Villa Point, and guests and visitors at The Dunes—to be exposed to substantial concentration of air pollutants from construction activities in accordance with the modeling methodology established by the South Coast Air Quality Management District (SCAQMD). Air pollutants from demolition activities are regulated by the SCAQMD. For buildings that contain asbestos, the SCAQMD requires additional measures to be taken to ensure that asbestos is contained on-site under SCAQMD Rule 1403. The requirements for demolition and renovation activities include asbestos surveying and notification; asbestos removal procedures and time schedules; asbestos handling and cleanup procedures; and storage, disposal, and landfilling requirements for asbestos-containing waste materials.

2. Response to Comments

Thresholds for localized air pollutant modeling are based on the California Ambient Air Quality Standards (CAAQS), which represent the most stringent ambient air quality standards that have been established to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those sensitive receptors most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Because air pollutant emissions generated during all construction activities, including demolition and grading activities, do not exceed the localized significance thresholds adopted by the SCAQMD, concentrations of air pollutants generated by project-related construction activities would not be substantial at the nearby sensitive uses.

O1-11 On July 26, 2007, the California Air Resources Board (CARB) adopted the regulation for *In-Use Off-Road Diesel Vehicles*. Under Section 2440(d)(3) of the California Code of Regulations, vehicles and engines subject to this rule, which include off-road diesel construction equipment, are prohibited from nonessential idling for more than five minutes.

O1-12 As stated in Impact 5.2-2 on pages 5.2-16 through 5.2-17 of the DEIR, the project would contribute to global warming through direct emissions of greenhouse gas emissions and indirectly through removal of existing vegetation and replacement of the surface area with paved parking lots, sidewalks, and structures. Table 5.2-8 quantified project-related operational emissions from on-site mobile and stationary sources. However, as described in Impact 5.2-2, the project's contribution to global climate change impacts was less than significant.

O1-13 Appendix C to the DEIR includes the SCAQMD's Rule 403 requirements to reduce fugitive dust during construction activities. SCAQMD Rule 403 requires measures to be taken by construction contractors during importing and exporting of bulk materials. As part of Rule 403, construction contractors are required to use tarps or other suitable materials on haul trucks and maintain a specified minimum freeboard in accordance with Vehicle Code Section 23114. Both these measures would reduce fugitive dust emissions associated with import/export of bulk materials. The DEIR references the existing SCAQMD requirements under Rule 403 that must be met.

Also note that the footnote referenced in this comment (Table 5.2-9, footnote 2) is incorrect. Vehicle Code Section 23114 requires a minimum six-inch freeboard. This correction is included in Section 3, *Revisions to the Draft EIR*, in this FEIR.

O1-14 Potential construction traffic-related impacts were analyzed in a separate technical study included in DEIR Appendix D. Upon implementation of the recommended mitigation measures, as included in the DEIR, construction traffic impacts would be less than significant. In addition, new mitigation measures have been added to the FEIR in Section 3, *Revisions to the Draft EIR*.

The construction traffic for the project, as shown on Figure 5, *Construction Traffic Access* in Section 3, *Revisions to the Draft EIR*, would be directed from the intersection of Jamboree Road and Back Bay Drive. For the demolition of the maintenance building and adjacent structure, the logical point of ingress/egress is a current emergency access point on Back Bay Drive, Point "A." This access point is



2. Response to Comments

near the buildings to be razed. Construction traffic for the demolition of the circular ballroom should use the existing driveway on Back Bay Drive north of the entrance to the Newport Dunes Point "B." In fact, this driveway may be the best point of ingress/egress for all construction on the lower parking field, including the construction traffic for the new ballroom. For the timeshare construction phase, the emergency access point on Back Bay Drive, either as existing point "B" or as proposed Point "C" (Proposed Driveway 4), would be the logical point for construction access.

Construction traffic would not occur north of the proposed emergency access to the timeshare units, eliminating impacts to the one-way portion of Back Bay Drive north of the Hyatt Regency, Newport Beach, which is used primarily for recreational purposes. A Construction Management Plan will be prepared prior to any construction activities. This plan will demonstrate how construction traffic would be routed onto and off of the site during all phases of the construction. A preliminary Construction Traffic Routing Plan is shown in Figure 5, *Construction Traffic Access* in the Section 3, *Revisions to the Draft EIR*. The Construction Management Plan will follow the California Manual of Uniform Traffic Control Devices to ensure that vehicular, bicycle, and pedestrian traffic is not adversely impacted during construction. Where necessary, the appropriate signage, traffic cones, barricades, and other traffic control devices will be utilized to maintain existing traffic, bicycle and pedestrian operations along Back Bay Drive. The Construction Management Plan will be reviewed and approved by the City of Newport Beach to ensure that current usage of Back Bay Drive is not adversely affected during any phase of construction. The Construction Management Plan will address in detail each phase of construction for the project.

In addition to the Construction Management Plan, the following measures would be Conditions of Approval that the City will implement to ensure that Back Bay Drive would not be adversely affected during the construction: 1) Staging/queuing of construction vehicles shall occur on-site, not within the public right-of-way. 2) Any road closures will require a temporary street closure permit that must be reviewed and approved by Public Works Traffic Engineering Division. 3) Any work within the public right-of-way will require an encroachment permit that must be reviewed and approved by the Public Works Department.

- O1-15 The commenter's concern is unclear. No smoking would be allowed inside of the facility, so the ability of the filtration system of the building to contain smoke within a specified area is not relevant. Smoking would be limited to designated outdoor areas only. Due to the distance between the facility and off-site receptors, concentrations of secondhand smoke that could affect off-site receptors would be negligible.
- O1-16 The impacts of the proposed project on adjacent sensitive vegetation communities, such as coastal sage scrub (CSS), were addressed in the EIR. The timeshare buildings have been designed and would be more than 50 feet from existing CSS. Furthermore, a 50-foot buffer area that would be planted with native vegetation and designed to protect the CSS would separate the proposed structures from the CSS, consistent with CLUP policies to protect ESHAs.

2. Response to Comments

- O1-17 For clarification, the text of the Fuel Modification Zone description on Figure 5.3-4 of the DEIR is reproduced in Section 3, *Revisions to the Draft EIR*. The designated Special Treatment Zone would serve two functions: fire protection and provision of suitable native habitat for purposes of buffering the CSS/ESHA from the development. To meet both of these goals, a site-specific plant palette has been selected that will optimize both functions. The proposed plant palette, consisting entirely of grasses, forbs, and some succulents native to central coastal Orange County and on the approved Newport Beach Fire Department list of fire-resistive plants includes but is not limited to:
- Foothill needlegrass (*Nassella lepida*)
 - Purple needlegrass (*Nassella pulchra*)
 - Lance-leaved dudleya (*Dudleya lanceolata*)
 - Alkali heath (*Frankenia salina*)
 - Seaside heliotrope (*Heliotropium curassavicum*)
 - Woolly lotus (*Lotus hermannii*)
 - Coast cholla (*Opuntia prolifera*)
 - Prickly pear (*Opuntia littoralis*)
- O1-18 This comment states that “disturbing the coastal sage is not the only issue.” It should be noted that this statement is incorrect since project implementation would not impact coastal sage scrub. Buildings would be a minimum of 50 feet from the CSS, which would in turn be buffered by native vegetation, as described above.
- The “open space” that would be lost consists of very-low value turf and areas with ornamental landscaping and, as discussed in the DEIR, these impacts are not significant. A biologist has been an integral part of the project team, and was responsible for reviewing the design, landscaping, fuel modification, and lighting plans for the project. Specific roles of the biological monitor (also a qualified biologist), are outlined in the DEIR mitigation measures, listed on pages 5.3-24 through 5.3-26.
- O1-19 As specified in Response O1-17, native plants would be introduced into the Fuel Modification Zone. As designed, the proposed project would not result in significant biological resource impacts and would protect existing resources through the use of native vegetation. Additional mitigation is not required.
- O1-20 TS-4, TS-5, and TS-2 require excavation for subterranean parking. According to the geotechnical report by Kleinfelder, Boring B-1 did not encounter any groundwater or seepage extending to a depth of 21 feet below ground surface (bgs), 30 feet above mean seal level (amsl). TS-4 and TS-5 are nearest B-1, with a finish floor of 42 feet. Boring B-2 did encounter seepage at depths of 34 feet bgs, or approximately 32.5 feet amsl. TS-2 is the structure nearest Boring B-2 and would have a finish floor elevation of 58 feet. Given that the timeshare buildings are at a higher elevation on the development site, it does not appear that the excavation required for the structures would encounter groundwater.
- O1-21 The commenter is correct in noting that the Thresholds of Significance provided on page 5.6-6 of the DEIR are directly from Appendix G of the CEQA Guidelines. The introduction to the list also references Appendix G as the source of the thresholds.



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The City of Newport Beach has not adopted CEQA significance thresholds, and therefore the CEQA Appendix Guidelines are appropriate and typical significance thresholds.

- O1-22 As described in DEIR Section 5.6, hazardous wastes are controlled through many of regulations. These are detailed in DEIR pages 5.6-1 through 5.6-3. As noted, businesses that handle more than a specified amount (reporting quantity) of hazardous materials are subject to preparation, submittal, and regular updates of a Hazardous Material Business Plan. It would not be meaningful for the DEIR to evaluate the potential chemical uses of a standard commercial operation such as the hotel when, as stated in the Initial Study, regulatory compliance would assure that related hazards would be less than significant. Cleaning and landscaping products used by hotels do not typically pose a risk to public health due to very small volumes that are used and the slim likelihood of a significant exposure to these chemicals. Similarly, any hazardous materials used during construction would be subject to similar local, state, and federal regulations regarding the storage, use, and disposal. Moreover, the transport of hazardous materials is governed by the rules and regulations of the Department of Transportation and compliance should protect the public from any significant impact from transportation activities. In the event of an accident, local emergency response teams would be deployed.
- O1-23 The commenter is correct in noting that hazardous emissions would not only affect school children. Significance Threshold H-2 addresses the potential release of hazardous materials during demolition and construction (see Impact 5.6-1). New sources of hazardous emissions are regulated by the South Coast Air Quality Management District, and handling of hazardous or acutely hazardous materials are regulated by the local Certified Unified Program Agency, which is the Orange County Health Care Agency for the City of Newport Beach. Compliance with the rules and regulations of these agencies, as detailed in Section 5.6-5, *Existing Regulations*, would reduce this impact to less than significant.
- O1-24 The commenter is correct in noting that the DEIR does not address Significance Threshold H-7 regarding whether the proposed project could impair implementation of an adopted emergency response plan. Issues that are adequately addressed in the Initial Study are not further analyzed in the DEIR. As noted in the Initial Study, the Emergency Management Plan provides guidance for the City of Newport Beach's response to extraordinary emergency situations associated with natural disasters, technological incidents, and nuclear defense operations in both war and peacetime. The plan focuses on management concepts and responsibilities during an emergency and includes numerous "functional matrices," which detail City, county, state, and federal responsibilities by individual positions and/or departments in the event of a major emergency. City departments and other local entities identified as having either a primary or support responsibility shall prepare Department Standard Operating Procedures and checklists detailing personnel assignment, policies, notification rosters, and resource lists. The management plan also details various emergency preparedness and response phases.

The City's 2004 Emergency Management Plan includes a review of potential City hazards that could result in a major emergency (earthquake, hazard chemical spills, fire/explosion, dam failure, aircraft accident, war/terrorism, nuclear accidents) and

2. Response to Comments

comprehensive, functional organizational information that would be implemented to respond to such emergencies. The plan does not include measures that specifically relate to the Hyatt project site. It does, however, include a Tsunami Evacuation Map (Figure 1.8.10.1) which designates Jamboree Road as an evacuation route. As summarized in DEIR Section 5.11, *Transportation and Traffic*, the project-related trips would not impact levels of service for the existing area roadway system, including Jamboree Road (see Impact 5.11-1). Project-related construction activities would result in a short-term impact to one intersection, Jamboree Road/San Joaquin Hills Road, during the PM peak hour. This intersection currently operates at an unacceptable LOS E and would continue to operate at LOS E with project implementation. During construction the project-related impact is considered significant because the increase in the intersection volume/capacity ratio would exceed 0.01, the City's significance traffic threshold for intersections already at an unacceptable level of service. This impact would only occur during the construction phase of the project. In addition, Mitigation Measure 11-2 in the DEIR, permits construction traffic during the PM peak period between 4pm and 6pm to lessen the impact. Given that the impact would not be permanent, that the level of service for the intersection would not change, Mitigation Measure 11-2, and the unlikelihood that a tsunami would occur during the construction of this project, this impact is not considered significant.

- O1-25 As noted, the DEIR acknowledges the potential release of asbestos and/or lead-based paint during demolition activities. Due to the age and type of the structures, these materials could be present. These are common materials requiring abatement and specific regulatory procedures are in place to conduct the work. As described in Section 5.6.5, *Existing Regulations*, SCAQMD Rule 1403 governs procedures for demolition of buildings with asbestos materials including requirements for asbestos surveying and notification; asbestos-containing material (ACM) removal procedures and time schedules; ACM handling and cleanup procedures; and storage, disposal, and landfill disposal requirements for ACM. Similarly, DEIR Section 5.6.5 describes the regulatory requirements for environmental control of lead-based paints, including exposure assessment, methods of compliance, respiratory protection, protective clothing and equipment, hygiene facilities and practices, medical surveillance, medical removal protection, employee information and training, signs, recordkeeping, and observation of monitoring. Specific references for each of the regulations are included in this section of the DEIR. These standard operating procedures are mandated and, contrary to this commenter's assertions, the DEIR is therefore not presuming the potential impacts and/or control measures for hazardous substances.
- O1-26 The potential fire hazard assessment for the proposed project is based on a comprehensive, custom assessment of the project site and state-of-the-art fire behavior modeling for specific site and surrounding area characteristics, including topography, vegetation, and climate. The referenced Fire Protection Plan (FPP) is included in its entirety as DEIR Appendix H. Moreover, the FPP was prepared in consultation with, and reviewed by, the City of Newport Beach Fire Department.
- O1-27 There would be no mechanisms located on the project site for the purpose of high tide events.



2. Response to Comments

- O1-28 The referenced DEIR quotation in this comment does not contradict the comments referenced in Coastal Commission's response to the Notice of Preparation dated January 16, 2007. Please refer to responses A2-1 and A2-2 in this FEIR in response to the Coastal Commission's DEIR comment letter and interpretation of allowed uses in the Visitor-Serving Commercial zone. The project would not require an amendment to the Coastal Land Use Plan (CLUP). Moreover, the statement does not imply that all necessary permits have been acquired. Because the City does not have a certified Local Coastal Program, a coastal development permit from the California Coastal Commission will be required, as noted in the Coastal Commission's comment letter.
- O1-29 Polyacrylamide is one of the best management practices (BMP) options on a list approved by the state. It has been removed from the list of BMPs proposed for this project. The revision to the DEIR text for Table 5.7-3 is included in Section 3, *Revisions to the Draft EIR*, of this Final EIR.
- O1-30 Construction phase control of stormwater runoff pollution is addressed in the DEIR on pages 5.7-25 to 5.7-28. As discussed, the project would be required to prepare a Stormwater Pollution Prevention Program, which identifies BMPs to address water quality and runoff during construction activities.
- O1-31 The regulatory requirements for controlling water quality and assuring implementation of BMPs is summarized in the DEIR and described in additional detail in the Water Quality Control Report (DEIR, Appendix I). The specific water pollutant control program elements of the Orange County Stormwater Program are documented in the Drainage Area Management Plan and corresponding Local Implementation Plans (LIPs). In accordance with the City of Newport Beach's adopted LIP (Section A.7.7), the City is required to verify that ongoing operations and maintenance of the Water Quality Management Plan's approved BMPs are being performed by project owners. This would be no different for the proposed project.
- O1-32 A refined plan for proposed BMPs is shown in Figure 6, *Proposed Storm Water BMPs* Section 3, *Revisions to the Draft EIR*. As shown, the proposed project would incorporate areas of pervious pavement. Final parking lot and driveway surfacing, however, would be determined during the final design phase of the project and approved by the City. There are no current restrictions that govern the use of black asphalt by the City.
- O1-33 Please refer to Responses A2-1 and A2-2 in response to the Coastal Commission's comment letter on the DEIR. The CLUP is drafted to provide a wide range of visitor uses and does not specifically identify those uses that are allowed. Timeshares would provide accommodations to serve City visitors and have historically been considered visitor serving by the City, and the proposed project has been determined to be consistent with the existing CV designation. As noted by the commenter, and documented in the DEIR (see page 3-35), the project will require a coastal development permit from the Coastal Commission.
- O1-34 Please refer to Response A2-3 regarding consistency of this project with the CLUP policies regarding ESHAs and sensitive habitat areas. Impact 5.3-1, DEIR page 5.3-

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10, evaluates the potential impact of the development and related fuel modification on designated ESHAs. Figure 5.3-4 in the DEIR provides additional detail on the fuel modification zones and designated buffer areas (please also see the updated version of this exhibit, Figure 2 in this FEIR, Section 3, *Revisions to the Draft EIR*). Within Section 5.8, *Land Use and Planning*, Coastal Resource Protection under the CLUP is discussed on page 5.8-10 and page 5.8-26.

- O1-35 Please refer to responses A2-1 through A2-4 in response to Coastal Commission comments on the DEIR. The City concludes that the proposed project is consistent with the CLUP and that an amendment would not be required.

Noise Comments

- O1-36 The commenter is correct, the DEIR concludes that construction-related activities would significantly impact the Palisades Tennis Club,

Reduction from temporary sound walls are based on the Federal Highway Administration's best practices for calculating estimated shielding. Based on these generalized sound level reductions for temporary sound walls, maximum noise levels generated by the construction equipment would continue to exceed ambient noise levels by a maximum of 18 to 24 dBA over the course of project construction. Consequently, even with mitigation incorporated, this was considered a significant unavoidable project impact. It should be noted that noise levels shown in the DEIR were calculated as if all construction equipment were operating adjacent to the property line, and therefore, the analysis is conservative. Average noise levels from construction activities can be expected to be substantially lower.

Sound walls are not sound blankets on fences. Mitigation measure 9-1 describes the sound blankets as fences typically comprised of poly-vinyl-chloride-coated outershells with adsorbent insulation. Temporary construction sound blankets or panels, such as those described in Mitigation Measure 9-1, have sound transmission class (STC) ratings that are associated with reductions in noise levels at the receiver. The actual noise attenuation from the sound blankets or panels is based on the STC-rating of the temporary structure, the distance and height of the source to the structure, and distance and height of the receiver to the structure. In general, the higher the STC rating, the more attenuation is provided. Likewise, the higher the wall, the less noise is transmitted over the wall.

Subsequent to distribution of the DEIR, additional research was conducted to determine the height and STC rating that would be suitable for the proposed project. To ensure the most effective barrier is used during construction activities so that noise level reductions from the sound wall exceed the generalized 5 dB used by the FHWA, Mitigation Measure 9-1 has been revised as follows (revisions shown in ~~strikeout~~**bold text**):

- 9-1 Temporary sound blankets (fences typically comprised of poly-vinyl-chloride-coated outer shells with adsorbent inner insulation) shall be placed alongside the boundary of the project site during construction activities that occur in the vicinity of residential and recreational land uses, which includes the areas adjacent to the Palisades Golf Course, the Newporter North Environmental Study Area, and the Bayview Landing senior community. The



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temporary sound blankets shall be to prevent direct line-of-sight from active construction areas **and shall be a minimum of 14 feet tall with a Sound Transmission Class (STC) rating of 25.**

This revision is also included in Section 3 of this FEIR, *Revisions to the Draft EIR*.

Potential alternatives to reduce construction-related project impacts were evaluated in Chapter 7, *Alternatives to the Proposed Project*. The potential for reducing construction equipment and extending the phasing schedule was considered. The magnitude of construction noise is dependent on the proximity of the construction activity to the sensitive receptors. Because residential and recreational land uses are in close proximity to the project site, it was concluded that modifying the construction phasing could not eliminate a significant noise impact.

O1-37 An updated statistical summary of the Newport Beach Fire Department is included in Appendix B. Staff includes 117 regular full-time suppression staff and 225 seasonal lifeguards. The lifeguards are fire department staff but do not work in fire suppression and do not affect response times.

O1-38 A discussion of existing, comprehensive regulatory programs to address the potential for hazardous materials is included in DEIR Section 5.6, *Hazards and Hazardous Materials* (see page 5.6-2). Chemical emergency planning is addressed in Chapter 6.95, Section 25502, California Health and Safety Code, and Title 19, California Code of Regulations. As described in the City's Emergency Management Plan (July 2004), in Newport Beach, the fire department is the agency designated to administer the hazardous chemical emergency planning and community right-to-know program. Businesses that handle hazardous materials in specified quantities (reporting quantities) are required to file business plans with the fire department. In the event of a hazardous materials incident in Newport Beach, the Newport Beach Fire Department will act as lead agency and will provide an Incident Commander, and the police department and the Public Works Department will provide incident support. Since regulatory requirements and emergency plans are in place, it is not necessary for a detailed plan to be prepared for the proposed project.

The erroneous reference to the Orange County Fire Authority as "Department" is noted and corrected by means of this Final EIR.

O1-39 See Response O1-38.

O1-40 Under CEQA, the Initial Study is used to determine the potential environmental issues that need to be further addressed in an Environmental Impact Report. Therefore, as noted in this comment, the Initial Study determined the proposed project could potentially impact both fire and police protection services, and that these should be evaluated further. Upon research and analysis, as included in DEIR Section 5.10, *Public Services*, the DEIR substantiates that the proposed project would not result in significant impacts to either the police or fire departments and no mitigation is required.

Construction-related traffic impacts are evaluated in the DEIR Section 5.11, *Transportation and Traffic*, pages 5.11-24, 25, and 5.11-29-31. As concluded, without mitigation, temporary construction impacts would contribute to an unacceptable

2. Response to Comments

level of service at Jamboree Road and San Joaquin Hills Road intersection and inadequate lane capacity along Jamboree Road during the PM peak period. Mitigation Measure 11-2, restricting construction vehicle trips during the PM peak hour (4 PM to 6 PM), reduces the impacts to less than significant. Moreover, no construction activities would occur at night. A DEIR reference to potential nighttime construction on page 3-21 has been deleted (see Section 3, *Revisions to the Draft EIR*). Fire and police response times would therefore not be hampered by project-related construction activities.

Transportation and Traffic Comments

O1-41 The parking and queuing demand for the banquet/ballroom have been adequately addressed in the DEIR. The proposed project site plan includes two primary access points to the guest and employee parking facility for the hotel. One vehicle access point would be provided from the existing main hotel entrance on Jamboree Road. A second vehicle access point would be provided through an enhanced access driveway off of Back Bay Drive. These two points of access are anticipated to be sufficient to serve automobile traffic entering and exiting the project site. Additionally, no form of access control is currently proposed for the project, allowing for more efficient access and egress.

The required corrections in this comment to Tables 5.11-7, 5.11-8 and 5.11-9 are noted and included in Section 3, *Revisions to the Draft EIR*, and shown in ~~strike-out~~/**bold** format for clarity.

Regarding DEIR page 5.11-22, the commenter suggests that the issue of 127 parking spaces versus the 140 spaces required by the City of Newport Beach needs to be addressed. The DEIR and traffic technical report include a shared parking analysis of the timeshare units and clubhouse to determine the anticipated peak parking demand forecast for the timeshare units and clubhouse facility. As shown in DEIR Table 5.11-9, parking demand would not exceed the 127 parking spaces designated for the proposed timeshare facilities. Peak demand is anticipated to be 124 parking spaces.

O1-42 The DEIR includes the analysis of traffic conditions on Jamboree Road in the weekday AM and PM peak hours during construction. This analysis corresponds to the peak time periods for traffic volumes along Jamboree Road, and therefore represents the worst-case scenario.

O1-43 As detailed in DEIR Mitigation Measures 11-3 (see page 5.11-33) the City of Newport Beach will require the project applicant to submit to the City for approval a Parking Management Plan (PMP), which that will specify the number and location of parking stalls that would be provided for hotel guests, employees, and construction employees during the construction of the proposed hotel improvements. The PMP would be required to demonstrate that sufficient parking (467 spaces) will be available on-site for all users during construction.

O1-44 Although, the buildings would not be LEED certified, the Hyatt Regency has committed to a Green Building Program for the proposed project, which includes energy-efficient and conservation-related building measures, landscaping,



2. Response to Comments

plumbing, lighting, heating, ventilation, air conditioning systems, etc. The outline for the program is included as Appendix C of this FEIR.

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Letter O2 – The Irvine Company (1 page)



THE IRVINE COMPANY

RECEIVED BY
PLANNING DEPARTMENT
MAR 28 2008
CITY OF NEWPORT BEACH

March 26, 2008

Ms. Jaime Murillo, Associate Planner
CITY OF NEWPORT BEACH
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

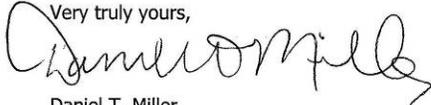
Subject: **Hyatt Regency Draft EIR**

Dear Ms. Murillo:

During our review of the Draft EIR for the Hyatt Regency Newport Beach Expansion (SCH # 2006121052) a couple of questions arose relative to information within the Transportation and Traffic discussion. Therefore, the following comments are submitted so that the documentation can be clarified.

1. The recently approved North Newport Center project did not appear in either the Approved Projects list (Table 4-1) or the Cumulative Projects list (Table 4-2). O2-1
2. The determination of whether the proposed project would have a significant impact on affected intersections (as portrayed in Table 5.11-5) did not appear to consider rounding the V/C calculations to the second decimal place O2-2

We appreciate the opportunity to comment and look forward to clarification regarding these questions.

Very truly yours,

Daniel T. Miller
Senior Vice President
Entitlement & Public Affairs

550 Newport Center Drive, P.O. Box 6370, Newport Beach, California 92658-6370 • (714) 720-2000



2. Response to Comments

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2. Response to Comments

O2. Response to Comments from The Irvine Company, Daniel T. Miller, Senior Vice President, dated March 26, 2008.

- O2-1 The traffic analysis includes Approved and Cumulative Projects as identified by the City of Newport Beach at the initiation of the traffic study and environmental analysis of the project in 2006. The North Newport Center project was submitted to the City for review and approval after the initiation of the traffic analysis for the Hyatt Newport Project, and is therefore not included in the Approved and Cumulative project list.
- O2-2 The traffic analysis presents the intersection volume to capacity ratios to three decimal places, consistent with the guidelines of the City of Newport Beach. The City requires rounding to two decimal places as part of the Traffic Phasing Ordinance analysis only, which was previously completed for this project.



2. Response to Comments

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Letter O3 – Unite Here!, Local 11 (3 pages)

UNITE HERE! *Local 11*

March 26th, 2008

Mr. Jaime Murillo
Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Notice of Completion & Availability of Draft Environmental Impact Report (SCH# 2006121052) for the Hyatt Regency Newport Beach Expansion

Dear Mr. Murillo:

Thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for the proposed expansion of the Hyatt Regency Newport Beach.

UNITE HERE represents hotel employees throughout California. We would like to raise several issues related to the draft EIR that we feel should be resolved prior to certification of the final EIR and granting of other approvals by the City of Newport.

Timeshares and the Coastal Act:

Many of UNITE HERE's members work in hotels along the California coastline and their families often live in nearby coastal neighborhoods. As participants in the state's tourism industry, we recognize the value of the coastline as a resource and attraction for visitors.

We are concerned with the inclusion of 88 new timeshare units in the proposed project. We concur with the issues raised in the January 16th, 2007 letter from Coastal Program Analyst Liliana Roman, responding to the EIR Notice of Preparation. Ms. Roman notes that Newport Beach's Coastal Land Use Plan (CLUP) does not specifically authorize timeshares in the Visitor Serving Commercial Zone and notes the need for a CLUP amendment to allow them.

O3-1

We also want to raise an additional issue. We believe that the project's timeshare component may violate Section 30213 of the State Coastal Act which states that "lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided." We do not believe that timeshares fulfill this requirement.

O3-2

Timeshares are geared towards a small segment of the population – a highly affluent customer base that can pay hundreds of thousands of dollars for such assets. Although I understand that Hyatt Regency owner Sunstone has not submitted detailed information about its planned timeshares, it is likely that the timeshares offered at such an upscale hotel will be even more expensive than the average timeshare. Even the most modestly priced timeshares, however, are out-of-reach for our members and other working people.

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1

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2. Response to Comments

We also question whether timeshare owners even qualify as the “visitors” discussed in the Coastal Act’s public access provisions. Timeshare properties are sometimes only accessible to those individuals who own units in the timeshare buildings, and not tourists who are seeking overnight accommodations while visiting the coastline. As you know, the Coastal Commission has been discussing whether fractionally owned developments such as timeshares and condo-hotels actually constitute visitor-serving uses and we share the Commission’s concerns on this issue.

O3-3

Finally, we believe that the timeshare project will only worsen Newport Beach’s lack of lower cost visitor accommodations. According to an August 8th, 2006 Coastal Commission memorandum prepared for the Commission’s “Condominium-Hotel Workshop,” the majority of Newport Beach’s visitor accommodations at the time (9 of 16) were classified as “luxury.” In contrast, only 3 Newport Beach accommodations were classified as “low cost.” The addition of timeshares will only increase Newport Beach’s status as a playground for wealthy visitors.

O3-4

Parking Analysis:

The project applicant commissioned a study to determine parking needs generated by the project, both during and after the construction phase. We question one assumption made in the study, which was also noted in section 5.11-21 of the draft EIR:

The parking analysis and the project’s site plan call for one parking space per five occupants for the proposed hotel banquet facilities. This assumption is aggressive in that it assumes a higher than average vehicle occupancy rate. The average vehicle occupancy rate in Southern California is 1.2 occupants per vehicle. While it is reasonable to assume that some conference/banquet attendees would be guests at the hotel, some events in the ballroom facilities would attract significant numbers of visitors who are not staying at the hotel. It is likely that the average vehicle occupancy rate for the ballroom/banquet facilities would fall between the standard 1.2 occupant figure and the 5 occupants per vehicle figure cited in the applicant’s parking study.

O3-5

It is difficult to believe that attendees of a function at the Hyatt Regency ballroom – such as a “black tie” gala – would typically arrive in cars packed with 5 people. An analysis based on such a questionable assumption may dramatically underestimate the actual parking demands generated by the project – especially since the ballroom will accommodate up to 800 people, and the hotel, including the 88 new timeshares, will only have 479 rooms. We believe that another analysis should be conducted with a more reasonable assumption, such as the 1.2 vehicle occupancy rate cited above.

Finally, we concur with points raised in a number of letters by Sea Island residents regarding noise and traffic.

O3-6

We believe these issues must be addressed and resolved in the final EIR for this project. Please keep me informed about any public hearings where this project and EIR will be discussed. Please also contact me at (213) 400-4283 if you want to discuss these issues.

O3-7

2. Response to Comments

Thank you for your attention to this matter.

Sincerely,



Andy Lee

Research Analyst

UNITE HERE

464 South Lucas Avenue, #201

Los Angeles, CA 90017

(213) 400-4283



2. Response to Comments

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2. Response to Comments

O3. Response to Comments from Unite Here!, Local 11, Andy Lee, Research Analyst, dated March 26, 2008.

- O3-1 Please refer to Responses A2-1 and A2-2 in response to the Coastal Commission's comment letter on the DEIR.
- O3-2 Please refer to Response A2-1.
- O3-3 Please refer to Responses A2-1 and O3-1.
- O3-4 Please refer to Response A2-1. The City's goals and objectives in its General Plan and CLUP are to provide a wide variety of accommodations for all visitors. Hotels, motels, timeshares, weekly and monthly rentals of homes, and overnight mooring areas all provide visitor serving accommodations in the City.
- O3-5 The parking analysis summarized in the DEIR does assume a more conservative parking ratio for the ballroom facilities. The analysis summarized in Table 5.11-7 is based on a demand assumption of 20 parking spaces per 1,000 square feet.
- O3-6 The commenter's concurrence with noise and traffic points raised by a number of Sea Island residents is acknowledged. Please refer to response to these issues in the following responses to resident letters.
- O3-7 As requested, Unite Here! will be notified of future activities, including public hearings, associated with this project.



2. Response to Comments

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Letter O4 – Stop Polluting Our Newport (SPON) (8 pages)



Robert A. Hamilton

November 6, 2008

Stop Polluting Our Newport (SPON)
P.O. Box 102
Balboa Island, CA 92662

**Subject: Review of Biological Issues Associated with Proposed
Conversion of the Hyatt Regency Golf Course to Timeshares**

Dear SPON,

At your request, I have evaluated various technical reports and analyses regarding the potential biological effects of converting an existing golf course to timeshare units and associated amenities at the Hyatt Regency, located near the Upper Newport Bay Ecological Reserve/John Wayne Gulch in Newport Beach (see Figure 1). The land adjacent to the Hyatt Regency is natural open space owned by the City of Newport Beach (City) that is open to public access. The proposed actions include fuel modification and landscaping within the City-owned open space. My qualifications to conduct this evaluation are provided in the attached Curriculum Vitae.



Figure 1. Aerial photograph from Google Earth Pro showing the area of biological interest, along the northern boundary of the Hyatt Regency property, in light green.

316 Monrovia Avenue Long Beach, CA 90803 562-477-2181 Fax 562-433-5292



2. Response to Comments

Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
November 6, 2008

Robert A. Hamilton, Consulting Biologist
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Methods

As part of this review, I reviewed a biological technical report dated 7 November 2007 that Glenn Lukos Associates (GLA) prepared for Sunstone Hotel Properties, Inc. I also reviewed the relevant portions of Draft and Final Environmental Impact Reports (DEIR, FEIR) that The Planning Center prepared in support of this project in 2008, with GLA serving as the biological consultant.

Plant community mapping was provided as Exhibit 3 of GLA's biological technical report, which was reproduced as Figur 5.3-2 of the DEIR. I visited the City's public open space area during afternoon hours on 29 October and 3 November 2008 in order to field-check GLA's plant community mapping and to view the resources present along the interface between the open space and the Hyatt Regency golf course. I took into the field print-outs of aerial photos from Google Earth Pro in order to create my own map of the plant communities present in the area of interest. I took numerous photographs during the second visit in order to document the conditions I encountered. I determined the area of native plant communities using Google Earth Pro.

The DEIR elicited several comments from the public concerning potential impacts to coastal sage scrub and other biological resources that exist along the northern edge of the existing golf course. Some comments concerned the size of the buffer proposed between proposed new buildings and Environmentally Sensitive Habitat Areas identified under the City's Coastal Land Use Plan (CLUP)¹. Other comments questioned was the proposal to conduct off-site fuel modification north of the Hyatt Regency property, which GLA biologists contend will not adversely affect ESHA, the federally listed California Gnatcatcher, or any other sensitive resources. In response to comments, the FEIR included "Revised DEIR Figure 5.3-4," a modified plan for fuel modification and landscaping along the northern property line prepared by Lee & Sakahara Architects. My comments on fuel modification issues refer exclusively to this current plan.

Results

The plant community maps prepared by GLA (Exhibit 3 of the technical report and Figure 5.3-2 of the DEIR) employ opaque screens that obscure the underlying aerial photographic image, making it difficult to evaluate their accuracy. I was better able to evaluate Exhibit 4 in GLA's technical report (California Gnatcatcher Location Map), since it used simple lines rather than screens, but Exhibit 4 shows only the mapped extent of coastal sage scrub, not wetlands or other communities. My own plant community map is provided as Figure 2 on the following page.

¹ Since the City has not prepared a certified Implementation Plan to accompany its CLUP, any proposed development at the Hyatt Regency site will require a Coastal Development Permit from the California Coastal Commission pursuant to the California Coastal Act.



Figure 2. Plant Communities. This photo shows the approximate property boundary in light blue. Of particular note are (1) the 0.05-acre cat-tail marsh shown in dark blue (I could not map the limits of the cat-tails with precision beneath overhanging vegetation, so this polygon should be regarded as approximate), (2) the limits of coastal sage scrub, which extend across the property boundary in the northwestern part of the site, and (3) the occurrence of native herbs and grasses in the ruderal area northeast of the property boundary.

The following sections discuss three aspects of GLA's plant community mapping that I disagree with.

Mapping of Cat-tail Marsh, Impacts to Freshwater Wetland ESHA

I delineated approximately 2,050 square feet (0.05 acre) of freshwater marsh near the northwestern project boundary. This marsh, some of which is obscured under the canopy of tall-growing non-native trees, is dominated by native Narrow-leaved Cat-tail (*Typha angustifolia*). Narrow-leaved Cat-tail has a wetland indicator status of "OBL," a ranking that applies to plants that "Occur almost always (estimated probability 99%) under natural conditions in wetlands" (Reed, P.B., Jr. 1988. *National List of Plant Species that Occur in Wetlands*. U.S. Fish and Wildlife Service Biological Report 88). During both visits, I noted

O4-1



2. Response to Comments

Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
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Robert A. Hamilton, Consulting Biologist
Page 4 of 8

that the soils were moist in the cat-tail marsh area, and that this area is fed by runoff from Back Bay Drive as well as from the Hyatt Regency property. Figures 3-5 show the cat-tail marsh area.

O4-1
Cont'd



Figure 3. Photo taken on 3 November 2008 showing dense cat-tail marsh northwest of the Hyatt Regency property line. The large palm tree in the background is located just north of the property line.

Figure 4. Photo taken on 3 November 2008 showing the proximity of the cat-tail marsh area to the Hyatt Regency property line. The view is toward Back Bay Drive, and the dense trees in the background are on the Hyatt property. Note also various non-native plants, such as Pampas Grass (*Cortaderia selloana*), Plumbago (*Plumbago auriculata*), as well as native Coastal Prickly-Pear (*Opuntia littoralis*) in the foreground.



Figure 5. Photo taken on 3 November 2008 showing contrast between dark, wet soil and lighter-colored, dry soil, at the base of the narrow palm tree shown in Figure 2, above. The presence of moist soil in this area suggests that irrigation runoff from the Hyatt Regency property probably contributes to supporting the cat-tail marsh that exists just north of the property line. The marsh area is also supported by runoff from Back Bay Drive.

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Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
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I have not conducted a formal wetland delineation at this cat-tail marsh area, but the existence of dense cat-tails and moist soil both strongly suggest that the entire cat-tail marsh area would be delineated as a wetland using any state or federal government criteria. Under Section 13577 of the California Code of Regulations, the following criteria determine “the precise boundaries of the jurisdictional areas described in the applicable provisions of the Coastal Act:”

1. the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;
2. the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or
3. in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

O4-1
Cont'd

This is known as the “one-parameter method” of delineating wetlands. Under this method, the cat-tail marsh area clearly qualifies as a wetland that is under the Coastal Commission’s jurisdiction. Under Section 4.1.1 of the City’s CLUP, coastal freshwater marsh areas (including cat-tail marshes) are presumed to be ESHA unless the property owner or project proponent demonstrate that this presumption is rebutted by site-specific evidence. The biologists of GLA did not describe this marshy area in their report, but did map a small area of “disturbed wetland” approximately 100 feet north of the northwestern corner of the Hyatt Regency property boundary. In reality, however, the cat-tail marsh habitat extends to within 10 feet of the property boundary and lies within the area proposed for fuel modification.

Policy 4.2.2-3 of the City’s CLUP specifies that all wetland ESHA shall have a “minimum buffer width of 100 feet wherever possible.” Given that this small area of freshwater marsh is adjacent to coastal sage scrub ESHA within the natural open space of Upper Newport Bay, there does not appear to be a strong argument to be made for waiving the CLUP’s wetland buffer standard in this instance.

O4-2

Mapping of Coastal Sage Scrub, Impacts to Coastal Sage Scrub ESHA

Page 5.3-20 of the DEIR states:

The project design would result in complete avoidance of off-site CSS. As shown on Figure 5.3-4, *Vegetation and Fuel Modification*, neither grading nor fuel modification activities would remove any CSS. In addition, the project design includes a minimum 50-foot buffer between developed areas and off-site CSS to assure full compliance with the City’s Coastal Land Use Policies.

O4-3

GLA’s Figure 4 shows a coastal sage scrub boundary comparable to my own, with the limit of scrub extending southward across the Hyatt Regency property line (i.e., into the area proposed for fuel modification, even under the revised plan). As noted in the DEIR, this area of coastal sage scrub is occupied by the federally threatened California Gnatcatcher.



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Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
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Robert A. Hamilton, Consulting Biologist
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Figure 6, below, shows the coastal sage scrub on the south side of the property line.



Figure 6. Photograph taken on 3 November 2008 showing coastal sage scrub dominated by California Sagebrush (*Artemisia californica*). The view is to the southeast from the barbed wire fence that marks the approximate northern boundary of the Hyatt Regency property. Approximately 1,150 square feet of coastal sage scrub (0.03 acre) occurs on the Hyatt property. Contrary to assurances given in the DEIR, this area of coastal sage scrub ESHA is proposed for fuel modification treatments under the current plans.

Under Section 4.1 of the City's CLUP, areas of coastal sage scrub occupied by California Gnatcatchers satisfy ESHA criteria, yet the revised fuel modification plan by Lee & Sakahara Architects shows that sage scrub would be subject to fuel modification impacts along both sides of the property boundary in the northwestern part of the site.

Furthermore, the DEIR and FEIR both claim that fuel modification in the coastal sage scrub buffer zone (as well as in coastal sage scrub itself) would be "environmentally sensitive." According to both the DEIR and FEIR, this means:

Landscaping vegetation shall be limited to *Carex* grass species or ground cover only from the Nbfd fire resistive plant list. Ground cover to be irrigated and maintained at a height of 8 inches or less and free of dead plant material. No shrubs or trees to be planted in this zone.

Examining the plant palette for the Special Treatment Zone set forth in the latest fuel modification plan, the species proposed are *Carex conica* "Snowline," *Horkelia cuneata*, *Lotus hermannii* [= *Lotus heermannii*], *Mimulus* species, *Nassella lepida*, *Nassella pulchra*, *Rhus ovata*, and *Sisyrhynchium belli*. *Carex conica* is a sedge native to Japan. *Rhus ovata* is not found at Upper Newport Bay or anywhere that I'm aware of along the coast of Orange County, and it is not thought to be valuable to the California Gnatcatcher. The species of *Mimulus* is unspecified, so cannot be evaluated for potential value to gnatcatchers. Since the species called for in the "special treatment" zone are not typical of coastal sage scrub, and most of them are not native to the site, I do not agree with the biologists of GLA that this treatment would be "environmentally sensitive" or useful to California Gnatcatchers, particularly when the groundcover would be maintained at a height of 8 inches or less. I would regard

O4-3
Cont'd

2. Response to Comments

Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
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Robert A. Hamilton, Consulting Biologist
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this treatment as inappropriate in a coastal sage scrub ESHA buffer, let alone within areas that currently support coastal sage scrub and gnatcatchers.

O4-3
Cont'd

Considering that Coastal Prickly-pear cactus does occur in the scrub adjacent to the site, I would advocate development of a prickly-pear-based fuel modification treatment within the ESHA buffer (with no direct fuel modification impacts to extant coastal sage scrub).

Mapping of Ruderal Vegetation

Biologists from GLA identified a larger area of "ruderal" (weedy) vegetation in the northeastern part of their plant community map than I did. I found that reasonably intact coastal sage scrub (i.e., areas dominated by native scrub species, but mixed in with ruderal species) covers a fairly large part of the area that GLA mapped as "ruderal." I also found that most of the remaining area that GLA called "ruderal" had a considerable amount of native grasses and herbaceous species in the understory, including Salt Grass (*Distichlis spicata*), needlegrass (*Nassella* sp.), White Everlasting (*Gnaphalium canescens* ssp. *microcephalum*), and Deer Weed (*Lotus scoparius*). As it appears that no impacts are proposed for the "ruderal" area in question, the mis-mapping of this area may not be of any importance at this time.

O4-4

Dumping of Green Waste into Natural Open Space

During my visits I noted that trash consisting of landscape plants had apparently been dumped into the natural open space; see Figures 7 and 8.

O4-5



Figures 7, 8. Photos taken on 3 November 2008 showing green waste that has been dumped in the natural open space adjacent to the Hyatt Regency golf course. Such activities degrade natural open space areas and may help to explain why some of the coastal sage scrub habitat adjacent to the golf course has been invaded by ruderal species.

Planting of Additional Trees in Off-site Areas

The revised fuel modification and landscape plan by Lee & Sakahara Architects shows plantings of various native and non-native trees in off-site areas, in the vicinity of coastal

O4-6



2. Response to Comments

Review of Biological Issues, Hyatt Regency Project, Newport Beach, CA
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Robert A. Hamilton, Consulting Biologist
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sage scrub. The uplands around Upper Newport Bay naturally support coastal sage scrub and other low-growing vegetation. Planting more trees in this area may reduce the value of preserved (off-site) habitats for California Gnatcatchers and possibly other species native to the local area. For example, the new trees may provide nesting sites or foraging perches for Cooper's Hawks, American Crows, or other predatory bird species. Is the City obligated to allow the project proponent to extend project landscaping outside of the property boundaries, even if this means potentially degrading the City's natural open space?

O4-6
Cont'd

Summary and Conclusion

As detailed in this letter, I do not believe that the CEQA documentation for this project accurately delineated or described the natural resources on City-owned natural open space located adjacent to the Hyatt Regency property. To summarize:

- ▶ The limits of freshwater wetlands were mapped much farther from the property boundary than is the case. The revised fuel modification plans do not provide the minimum 100-foot buffer called for in the CLUP.
- ▶ The limits of coastal sage scrub were not mapped accurately along the northern property boundary. Implementation of the revised fuel modification plans would directly impact coastal sage scrub habitat occupied by the California Gnatcatcher.
- ▶ The "special treatment" fuel modification proposed within and adjacent to coastal sage scrub involves introducing various plants that are not native to the local area, as well as intensive maintenance to keep the groundcover low. An approach based upon locally native cactus would provide habitat for gnatcatchers and other local wildlife species and would not require invasive and repetitive mechanical disturbance to maintain an effective fire break.
- ▶ I documented dumping of green waste into the City's natural open space adjacent to the Hyatt Regency property.
- ▶ The City should carefully consider the potential ecological ramifications of allowing the applicant to plant trees in the City's open space, in an area that does not naturally support such tall vegetation.

Thank you for the opportunity to provide this independent review. If you wish to discuss any matters, please call me at 562-477-2181 or send e-mail to robb@rahamilton.com.

Sincerely,



Robert A. Hamilton
Consulting Biologist

Attachment: Curriculum Vitae

O4. Response to Comments from Robert A. Hamilton (as addressed to SPON), letter dated November 6, 2008.

O4-1 During the Planning Commission Hearing for the Hyatt Regency Expansion on November 6, 2008, Mr. Hamilton identified concerns regarding the location of the wetlands adjacent to the project site boundary. In response, the project biologist, Tony Bomkamp of Glenn Lukos Associates (GLA) conducted a follow up site visit on November 7, 2008 to evaluate Mr. Hamilton's findings. The biologist conducted a second visit to formally delineate the cattail wetland on November 17 and December 2, 2008, using sub-meter accuracy GPS technology to map the limits of the cattail wetland. The limits of the GPS-generated polygon were very close to the limits depicted by Mr. Hamilton; however, GLA believes the discrepancy is due to the different methods being used to establish the location of the cattail wetland. The use of a sub-meter GPS technology is a more accurate method for delineating the limits of the cattail wetland than an aerial photograph obtained from Google Earth Pro. Figure 2, *Vegetation and Fuel Modification* (revised DEIR Figure 5.3-4) shows the revised location of the wetland.

The original wetland mapping has shifted the location of the cattails to the north site when it was initially mapped in 2007; however, more importantly it appears that the wetland area has expanded to the south. While the reason for the expansion is not known, it is likely a combination of the extreme drought conditions during 2007 when it was initially mapped and wetter conditions in 2008 allowing expansion to the south to its current location (cattails are highly opportunistic and have the capacity to respond to varying environmental conditions). Based on the delineation using GPS, the southernmost extent of the cattails is approximately 40 feet from the property boundary. Therefore, the portion of the wetland is not within the "Special Treatment Zone"; rather, the cattail wetland is just outside the Special Treatment Zone and, there would be no need to remove any of the cattails during fuel modification. In response to this comment, the City has added the following Condition of Approval for the project: Prior to the issuance of building permits, a qualified biologist shall review the final landscaping plans to ensure that the proposed trees do not pose a potential threat to areas of adjacent Coastal Sage Scrub (CSS) Environmentally Sensitive Habitat Areas.

O4-2 Subsequent to the November 6, 2008, public hearing and follow-up assessment of the wetlands adjacent to the project site, the project applicant has worked with the City to increase the buffer area around the wetland and to assure compliance with CLUP Policy 4.2.2-3. The site plan has been modified to provide a minimum of a 100-foot buffer between the proposed timeshare buildings and the wetland. The modifications to the site plan and required related DEIR revisions are detailed in Chapter 3, *Revisions to the Draft EIR*, and Section 3.2, *DEIR Updates and Clarifications*. The revised site plan is included in Section 3.4, *Revised and New Figures* (see Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4), Figure 2, *Vegetation and Fuel Modification* (Revised DEIR Figure 5.3-4) and Figure 2a, *Vegetation and Fuel Modification–Plant Palette Detail*).

O4-3 Based on the project biologist's review and concurrence with the commenter's opinion about the use of *Carex conica* and *Rhus ovata* within the Special Treatment



2. Response to Comments

Zone, the City will include the following Condition of Approval: Within the Special Treatment Fuel Modification Zone located between the identified environmentally sensitive habitat area (ESHA) and Timeshare Building Nos. TS-1 and TS-2, only the following native, fire-resistant plant species shall be planted, subject to the approval of the Fire Department:

- Coast prickly pear (*Opuntia littoralis*)
- Coastal cholla (*Opuntia prolifera*)
- Sticky-leaved monkey flower (*Mimulus aurantiacus*)
- Foothill needlegrass (*Nassella lepida*)
- Purple needlegrass (*Nassella pulchra*)
- Lance-leaved dudleya (*Dudleya lanceolata*)
- Blue-eyed grass (*Sisyrinchium bellum*)

- O4-4 The areas to the north of the fuel modification do contain “reasonably intact” coastal sage scrub; however, the limited areas that will be affected by fuel modification contain essentially no shrubs characteristic of Coastal Sage Scrub. In fact, the limited area of ruderal habitat within Zones C and D support very low densities of native species, including salt grass and needlegrass, and the proposed fuel modification activities would avoid all areas with even moderate densities of native plants. Refer to Figure 2, *Vegetation and Fuel Modification* (revised DEIR Figure 5.3-4) and Figure 2a, *Vegetation and Fuel Modification—Plant Palette Detail*.
- O4-5 In response to this comment, the City has added the following Condition of Approval for the project: Disposal of green waste onto the natural open space areas adjacent to the site shall be prohibited.
- O4-6 The current landscape plan has been designed with no landscape trees within the minimum 50-foot buffer zone between the Coastal Sage Scrub (CSS) and development with many of the trees at greater distances. In response to this comment, the City has added the following Condition of Approval for the project: Prior to the issuance of building permits, a qualified biologist shall review the final landscaping plans to ensure that the proposed trees do not pose a potential threat to adjacent areas of CSS Environmentally Sensitive Habitat Areas.

2. Response to Comments

Letter R1 – Gerard Adhoute MD, FACS (2 pages)

Gerard ADHOUTE MD, FACS
20 Le Mans Dr.
Newport Coast CA, 92657
March 1 2008

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department.
3300 Newport Boulevard
Newport Beach CA 92663

Dear Jaime Murillo,

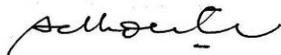
Regarding the notice of Completion & Availability report, I disagree with the new construction and addition to the hotel.

The environmental impact will be negative. Also there will be additional traffic on PCH and Jamboree.

R1-1

With Best Regards

Gerard Adhoute



2. Response to Comments



**NOTICE OF COMPLETION & AVAILABILITY
OF DRAFT ENVIRONMENTAL IMPACT REPORT (SCH# 2006121052)
FOR THE HYATT REGENCY NEWPORT BEACH EXPANSION**

DATE: FEBRUARY 8, 2008

TO: DRAFT EIR DISTRIBUTION LIST

SUBJECT: NOTICE OF COMPLETION AND AVAILABILITY OF THE DRAFT ENVIRONMENTAL IMPACT REPORT (SCH# 2006121052) FOR THE HYATT REGENCY NEWPORT BEACH EXPANSION

PROJECT APPLICANT: KEN CRUSE - SUNSTONE HOTELS

DRAFT EIR REVIEW PERIOD: February 12, 2008–March 27, 2008

Pursuant to the State of California Public Resources Code Section 21165 and the "Guidelines for Implementation of the California Environmental Quality Act" as amended to date, as Lead Agency, the City of Newport Beach is circulating for public review a Draft Environmental Impact Report (DEIR) for the proposed Hyatt Regency Newport Beach expansion.

Project Title: Hyatt Regency Newport Beach Expansion (proposed project)

Project Description: The proposed project is an expansion of the existing Hyatt Regency Newport Beach hotel located at 1107 Jamboree Road. Proposed improvements would include the addition of 88 timeshare units within seven buildings; a new 800-seat ballroom facility; a new 10,072 square-foot spa and fitness center, including a new outdoor pool facility; a new housekeeping and engineering building; and a two-level parking garage. As proposed, implementation of the project would require demolition of the 12 existing villas (rooms), the existing 3,190-square-foot Terrace ballroom, and the existing engineering and maintenance building, and removal of the existing nine-hole golf course. The proposed project would also require the removal and reconfiguration of a recreational courtyard located in the center of the main hotel complex, and associated hotel parking areas, hardscape, and landscape. The majority of the hotel expansion consists of redevelopment in the northern, northwestern, and southern portions of the project site. Other upgrades would also occur in the central portion of the project site. The total area for redevelopment is approximately 14 acres, or about 55 percent, of the overall 25.7-acre project site.

The project is consistent with the City's General Plan and Zoning Code and is also consistent with the 1993 Circulation Improvement and Open Space Agreement, which was undertaken between the City of Newport Beach and The Irvine Company (the project applicant's predecessor-in-interest for the property). The Hyatt Regency was one of 11 properties included in this agreement for which vested development rights were granted in consideration of prepaid, fair-share road improvement fees, constructed road improvements, an interest-free loan to the City, and conveyance of approximately 140 acres of property for

2. Response to Comments

R1. Response to Comments from Gerard Adhoute MD, FACS, dated March 1, 2008.

- R1-1 This commenter's objection to the project is acknowledged, and will be forwarded to decision makers. The traffic impact analysis conducted for the proposed Hyatt Regency expansion identified no significant traffic impacts to the surrounding roadway network (including PCH and Jamboree), per the guidelines established by the City of Newport Beach.



2. Response to Comments

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2. Response to Comments

Letter R2 – Winnie Jay (1 page)

374 VILLA POINT DR.
NEWPORT BEACH, CA 92660
MARCH 8, 2008

RECEIVED
PLANNING & COMMUNITY DEVELOPMENT
MAR 19 2008

DEAR JAIME MURILLO:

Re: SCH # 2006121052
HYATT REGENCY NEWPORT BEACH

OBJECTION FOR THE NEWPORT BEACH EXPANSION
REASONS:

1) THE TRAFFIC WILL BE WORSE. | R2-1

2) WE NEED MORE OPEN SPACE. | R2-2

3) CRIME RATE WILL BE INCREASED IN
THIS AREA - | R2-3

THANKS FOR YOUR ATTENTION TO THIS
MATTER.

yours truly
Winnie Jay



2. Response to Comments

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2. Response to Comments

R2. Response to Comments from Winnie Jay, dated March 8, 2008.

- R2-1 The traffic impact analysis conducted for the proposed expansion project identified no significant traffic impacts to the surrounding roadway network, per the guidelines established by the City of Newport Beach.
- R2-2 The commenter's opinion regarding the need for more open space is noted. The project is on private property and is consistent with existing plans and zoning. Additionally, the proposed 10,072-square-foot spa and fitness center would be available to both hotel guests and the general public. Existing open space at the project site comprises 13.03 acres, or 54.5 percent of the site, in comparison to the proposed project, which would include 9.65 acres, or 40.4 percent of the site.
- R2-3 The project's potential impact on police services is evaluated in DEIR Section 5.10, *Public Services*. Based on the response from the police department, the project would not substantially increase the demand for protection services, and the department is adequately staffed to handle the proposed project.



2. Response to Comments

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2. Response to Comments

Letter R3 – Jan D. Vandersloot (1 page)

From: JonV3@aol.com [mailto:JonV3@aol.com]
Sent: Thursday, March 27, 2008 12:08 AM
To: Murillo, Jaime
Cc: kschwing@coastal.ca.gov; EWilson@dfg.ca.gov; ken_corey@fws.gov; fsy@coastal.ca.gov; lauracurran@mac.com; AMODEROSA@aol.com
Subject: Draft EIR Hyatt Regency Expansion SCH#2006121052

March 26, 2008

Re: Draft EIR, Hyatt Regency Newport Beach Expansion
SCH# 2006121052

Dear Mr. Murillo,

Thank you for the opportunity to comment on the Hyatt Regency Draft EIR.

I believe the EIR analysis of the buffer that is required from the ESHA at John Wayne Gulch (Newport Valley) is inadequate. A 50-foot buffer is a minimum size in Policy 4.1.1-10 in the CLUP. However, this is not an optimum size of buffer, given the ecologic significance of the Upper Newport Bay ecosystem and the proximity of nesting gnatcatchers, a threatened species.

Buffers of 100 meters have been required in other coastal ecosystem ESHA's such as Bolsa Chica.

Therefore, I request the EIR explain why a 50-foot buffer is required as opposed to a 100-meter buffer which would be much more compatible with uses adjacent to the ESHA at the Upper Newport Bay ecosystem. The existing use is a golf course, which is essentially open space. However, putting buildings within 50-feet of the ESHA is probably going to be unacceptable to the Coastal Commission or wildlife agencies.

Therefore, I request you require the buffer to be 100 meters in the EIR.

Thanks again for the opportunity to comment.

Sincerely,

Jan D. Vandersloot, MD



R3-1

2. Response to Comments

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2. Response to Comments

R3. Response to Comments from Jan D. Vandersloot, dated March 26, 2008.

R3-1 The determination of appropriate buffer widths depends on a variety of factors, including the species potentially affected, the extent of the interface between development and environmentally sensitive habitat areas (ESHA), and other measures to mitigate potential indirect impacts. For this project, as described in detail below, a 50-foot buffer is sufficient given the site conditions.

The commenter incorrectly characterizes the approved buffers at Bolsa Chica (Brightwater) as 100 meters. The Coastal Commission actually approved “variable width” buffers rather than the 100 meter buffers noted by the commenter. It is also important to note that white-tailed kites have been documented to nest immediately adjacent to the Brightwater site, and white-tailed kites are more sensitive to development than the California gnatcatcher, which has been documented to nest within six meters (about 19 feet) of a major interstate highway in San Diego County:

Five nests of the California gnatcatcher were recorded during the San Diego study, two along the I-5, three along I-15. Of these five, two were within revegetated coastal sage scrub on cut and filled slopes, three in natural sage scrub vegetation. The nests were at 6, 15, 24, 61, and 88 meters from the edge of the highway. One additional nest, on a revegetated filled slope approximately 15 meters from I-5 was previously documented by RECON.¹

Current research indicates that the California gnatcatcher is not “edge sensitive” and does not require expansive buffers. The 50-foot buffer recommended by the Coastal Land Use Plan is sufficient to ensure that no impacts to nesting gnatcatchers are associated with the project, particularly given other mitigation measures proposed for the project (e.g., lighting). Finally, the area of interface with a 50-foot buffer between building and coastal sage scrub extends for only about 65–70 feet, with the buffer expanding rapidly outside of this narrow area of interface. Therefore, the minimum 50-foot buffer is more than adequate to protect the ESHA functions.



¹ Famolaro, Peter and Jeff Newman. 1998. “Occurrence and Management Considerations of California Gnatcatchers along San Diego County Highways,” *Western Birds*, Vol. 29, No. 4.

2. Response to Comments

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2. Response to Comments

Letter R4 – Peter S. Bordas (2 pages)

PETER S. BORDAS
907 SPRING TIDE DRIVE
NEWPORT BEACH, CA 92660

March 26, 2008

Bill Lepo, Planning Director
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Re: Hyatt Regency Newport Beach Expansion Project, SCH#2006121052

Dear Mr. Lepo:

My neighbors and I on Spring Tide Drive in Harbor Cove look down upon the proposed expansion project and would welcome the opportunity to provide input to the planning commission.

R4-1

Two of us became aware of the EIR when walking by the corner of Jamboree and Back Bay Drive since a notice was posted on a very small sign on the corner.

We are aware that the deadline for comments is March 27, 2008.

We are also aware that the owner of the hotel has retained Ms. Julie Cavanaugh of Government Solutions to make presentations to homeowners groups and receive input on modifications. We were told she sent a notice to our property manager on February 12 and has offered to meet with us. Unfortunately, the property manager either did not receive the invitation or failed to take prompt action on the matter so the presentation has not yet been scheduled. We would prefer to provide further comments after the presentation but wish to go on record that we do have interest and hope to have this opportunity in the future.

R4-2

We are further aware of a memorandum from the Coastal Commission dated December 26, 2006 to local governments indicating their position on Condominium-Hotel Development in the coastal zone and their concerns about these structures being quasi-residential.

R4-3

We are also aware of a letter from the Coastal Commission to the City of Newport Beach dated January 16, 2007 which indicates the Coastal Land Use Plan and not the City's General Plan should be used for planning guidance within the coastal zone. It further states that if the specific provisions of the Land Use Plan does not allow for "time share" hotel proposals, the local government should prepare and submit a LUP amendment for commission review and action. We were unable to determine from the EIR if this amendment has been prepared and reviewed/approved.

R4-4



2. Response to Comments

Page 2

Hyatt Regency Newport Beach Expansion Project, SCH#2006121052
March 26, 2008

We have reservations about the 88 time share units proposed for the expansion and hope
in the future to be able to provide our input to both the developer and the planning
commission.

R4-4
(cont'd)

Respectfully yours,



Peter S. Bordas

PSB/pw/03268



Debbie Hartunian
911 Spring Tide Drive



Myra Lauder
921 Spring Tide Drive

Linda Hatfield
909 Spring Tide Drive



Mike Bagramian
903 Spring Tide Drive



Sandy Sewell
905 Spring Tide Drive

2. Response to Comments

R4. Response to Comments from Peter S. Bordas, dated March 26, 2008.

- R4-1 Comment noted. The City complied with the California Environmental Quality Act (CEQA) requirements for public notification of availability of the DEIR. Notices were mailed to individual property owners and occupants within a 300-foot radius of the Hyatt Regency property boundary, and notices were posted on- and off-site. In addition, the notice was posted on the City of Newport Beach's website. The 45-day public review period, as noticed, was from February 12, 2008, through March 27, 2008.
- R4-2 The commenter correctly notes that Government Solutions represents the project applicant, Sunstone Hotels, for this project. After receipt of this letter, Government Solutions arranged a community meeting with Harbor Cove residents and homeowners to provide an overview of the proposed Hyatt Regency Expansion project. The meeting was held May 1, 2008, at the Park Newport, Catalina Room. Meeting minutes are included as Appendix D of this FEIR.
- R4-3 The City is aware of and has reviewed the referenced Coastal Commission memorandum. Please refer to the responses to the Coastal Commission's comment letter on the DEIR (Letter A2) in this Final EIR. It should be noted that the Coastal Commission has approved a variety of visitor accommodations in the coastal zone including but not limited to hotels, motels, youth hostels, overnight campgrounds, timeshares, fractional ownerships, and condominium hotels.
- R4-4 Please refer to Response A2-1. Since timeshares would provide accommodations to serve City visitors and have historically been considered visitor serving by the City, the proposed project is consistent with the existing CV designation and an amendment to the Coastal Land Use Plan is not required.

The commenters' concerns are noted, and the signees of this letter will be notified of the public hearing scheduled for consideration of the proposed project.



2. Response to Comments

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2. Response to Comments

Letter R5 – Gerald S. Morris and Gay G. Morris (2 pages)

From: jerryandgay [mailto:jerryandgay@cox.net]
Sent: Saturday, March 29, 2008 9:48 AM
To: Murillo, Jaime
Subject: Hyatt Expansion Opposition-Sea Island/Island Lagoon

Mr. and Mrs. Gerald S. Morris
22 Ocean Vista
Newport Beach, CA 92660
949 721-8223
jerryandgay@cox.net

March 27, 2008

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Dear Mr. Murillo;

As residents of the community of Sea Island, located directly across the street from the Hyatt Regency, we strongly oppose the proposed expansion. We feel that the expansion will have a negative impact on our quality of life and our property values.

R5-1

A recent meeting conducted by Government Solutions, a lobbying group representing the Hyatt, further amplified our concerns. Several statements made by the group were inaccurate interpretations of known facts. They did not have the answers to some very important questions which should have been part of the preliminary package presented to the City. In addition, prior to the meeting we were told that they had arranged for City of Newport Beach officials to be present to answer our questions and to hear our concerns. There was no representation from the City of Newport Beach. It appears from their presentation, that the main motivation for this expansion is to bring added revenue to the City of Newport Beach with the addition of a new ballroom with an occupancy of 800. According to the presenters of Government Solutions, the city is losing business to Huntington Beach and Irvine due to the lack of ballroom capacity.

R5-2

The areas of the expansion that will have the greatest negative impact include:

Additional noise- This is already an issue from the concerts that are held in the amphitheater and special events held in their restaurant/club rooms at the front of the hotel. The additional noise from a large capacity ballroom will only increase the volume. Residents are also concerned that moving the maintenance facilities directly across the street from the sleeping quarters of many of the units will impact their quality of life.

R5-3



2. Response to Comments

Increased traffic-Contributing to the noise problem will be the addition of more traffic, especially the traffic that is generated from large events being held in the ballroom. These events will see large numbers of cars arriving and departing within a single time frame. We also experience a safety hazard on Jamboree as cars head down Jamboree toward Pacific Coast Highway. Cars stopped for lights, backed up at the entrance to the Hyatt or waiting to turn right into the Dunes are often rear ended. Speeds pick up on a downhill grade and it is difficult to see the stopped / slowed traffic as you head down the grade. We are afraid that we will experience traffic problems, on a regular basis, similar to those that are present on the nights of the Boat Parade.

R5-4

Increased lighting -Additional lighting from the newly constructed buildings will add additional illumination to our community. We are especially concerned that the lighting from the top story of the parking structure will directly illuminate the sleeping quarters of many of the residents of Sea Island/ Island Lagoon. This lighting includes both the illumination installed by the Hyatt and also the lights of the cars using the parking structure, especially during large events.

R5-5

Loss of view-A wide variety of views will be compromised or lost by members of the community. We have various view perspectives located through out the community. These views include views of the Back Bay, golf course and green belt areas. In a number of cases, these views will be either lost or compromised, and replaced with views of buildings, a parking structure, cars and additional traffic.

R5-6

Please keep us informed of any decisions and public forums to be held regarding the proposed Hyatt Regency expansion. It is important that this project not be pushed through and the concerns and objections of the resident's of Newport Beach ignored.

R5-7

Sincerely,

Gerald S Morris and Gay G. Morris

2. Response to Comments

R5. Response to Comments from Gerald S. Morris and Gay G. Morris, dated March 27, 2008

R5-1 The commenters' opposition to the proposed project is acknowledged.

R5-2 Government Solutions, a firm representing the project applicant, Sunstone Hotels, held community meetings to provide an overview of the proposed project to surrounding residents. These meetings were conducted as public outreach by the applicant and were not sponsored, and therefore were not attended by City staff members or officials. Meeting minutes of the Sea Island community Homeowners Association Meeting held on March 26, 2008, are included in Appendix E of this DEIR.

The objectives of the proposed project are listed on DEIR page 3-2 and include, "Develop a new, larger ballroom facility to assist in meeting conference need for the City of Newport Beach." The potential opportunity for expanded ballroom facilities or conference centers in existing hotels was identified in a revenue enhancement study conducted by PKF Consulting on behalf of the City of Newport Beach and the Newport Beach Conference and Visitors Bureau.² A preliminary study of the potential market demand for a conference or convention center was conducted, which evolved into a revenue enhancement study for Transient Occupancy Tax) for the City. The study's primary findings included an example of Public-Private partnerships that could allow for the development of a large ballroom or conference center at one of the existing hotels which would allow the City of Newport Beach to increase its level of rooms demand by appealing to group demand segments not currently able to be accommodated within the community.

R5-3 Stationary noise from operation of the project was addressed in the DEIR under Impact 5.9-2 on page 5.9-21. The impact analysis references the annual outdoor jazz event hosted by the Hyatt Regency. This is a week-long event that occurs in May. If the project is implemented, this event would no longer occur. The event takes place on the golf course, which would be replaced with timeshares. The Jazz Series (which occurs once a week during the summer months in the Amphitheatre), would continue, and as disclosed in the DEIR, would be subject to a Special Events Permit. Note that a Special Events Permit does not give the permit holder permission to violate the noise ordinance. Pursuant to the City's Municipal Code for sound-amplifying equipment, noise levels from such devices are required to be controlled so they are not audible in excess of 100 feet. Consequently, the project would be required to abide by the mandatory noise limits of the Newport Beach Municipal Code.

Regular hotel operations, including the ballroom and maintenance facility referenced in this comment, would comply with the City's regulatory noise requirements. Under the City of Newport Beach Municipal Code, Section 10.26.025. Pursuant to the City's Municipal Code, noise generated at the Hyatt Regency property is prohibited from generating noise levels at residential properties that exceed 55 dBA L₂₅ during the day and 50 dBA L₂₅ during the night. These standards define what constitutes a noise nuisance in the City of Newport Beach. Because the project is bound by these

² PKF Consulting, 1997, February 15.



2. Response to Comments

standards, it would not generate noise that would result in a noise nuisance at the residences during the daytime or nighttime.

- R5-4 The existing speed limit on Jamboree Road approaching the Hyatt Newport entrance is 50 mph. The American Association of State Highway and Transportation Officials guidelines require a stopping sight distance of at least 500 feet for streets with speed limits of 50 mph. The available sight distance along Jamboree Road south of the Hyatt Entrance is greater than 500 feet.
- R5-5 The proposed lighting plan and the parking structure elevations are shown in Figures 3 and 4 of this FEIR, respectively. Lighting is subject to stringent City requirements and review as detailed under *City of Newport Beach Standard Conditions* on DEIR page 5.1-35. To clarify the maximum light spillage that would be allowed, the standard condition for this project has been refined to specify that spillage would not exceed one foot-candle at the property line. This refinement is included in Section 3, *Revisions to the Draft EIR*. A detailed photometric study has been prepared. As shown on this study, because the light fixtures have been designed as “full cut-off fixtures,” there would be no horizontal light spillage as a result of project implementation. Any revisions to the photometric study will be included with the final lighting plan would also be required prior to issuance of a building permit. Additionally, prior to occupancy, the lighting improvements would be inspected by City enforcement personnel to confirm that lighting levels do not exceed requirements and the approved lighting plan.
- R5-6 As documented in the DEIR, Section 5.1, *Aesthetics*, the City’s General Plan and Local Coastal Program focus on the protection of public views. General Plan policy NR 20.3 specifies public view corridors from various roadway segments that should be protected (see DEIR page 5.1-4). The DEIR does, however, acknowledge that surrounding residential communities, including the Sea Island community, have views of the project site, including the existing golf course and greenbelt areas. Due to heavy landscaping within the Sea Island community and on the Hyatt project site, most views of the Back Bay from Sea Island residents are limited. Although project-related impacts to surrounding residents have determined to be less than significant, it is acknowledged that some existing views would be impacted by the project.
- R5-7 As requested, this commenter will be notified of future activities associated with this project.

2. Response to Comments

Letter R6 – Yvette Alexander (1 page)

From: yvette.alexander1@wachovia.com [mailto:yvette.alexander1@wachovia.com]
Sent: Tuesday, April 01, 2008 10:41 AM
To: Murillo, Jaime
Subject: Hyatt Regency Newport Beach Expansion

Hello Mr. Murillo,

My name is Yvette Alexander and I am a homeowner in Sea Island (Island Lagoon HOA).

Sea Island is located directly across from the Hyatt Newport Beach. I would like to note my opposition to the Hyatt expansion. The modifications and additions to the Hyatt facility will have negative impact on noise and traffic and may also impact the night lighting.

R6-1

Thank you for your consideration and again please make note of my opposition.

Sincerely,

Yvette

Yvette M. Alexander
13 Ocean Vista, Newport Beach Ca 92660
Yvette.Alexander1@wachovia.com



2. Response to Comments

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2. Response to Comments

R6. Response to Comments Yvette Alexander, dated April 1, 2008.

R6-1 The commenter's opposition to the project is acknowledged and will be forwarded to decision makers. The traffic impact analysis conducted for the proposed expansion of Hyatt project identified no significant traffic impacts to the surrounding roadway network, per the guidelines established by the City of Newport Beach. Similarly, the operation of the Hyatt Regency expansion would not generate noise levels that exceed the City's noise standards or substantially elevate existing noise levels in the vicinity of noise-sensitive land uses. The DEIR, does, however conclude that construction-related noise impacts could not be mitigated to less than significant.

The proposed lighting plan and the parking structure elevations are shown in Figures 3 and 4 of this FEIR, respectively. Lighting is subject to stringent City requirements and review as detailed under *City of Newport Beach Standard Conditions* on DEIR page 5.1-35. To clarify the maximum light spillage that would be allowed, the standard condition for this project has been refined to specify that spillage would not exceed one foot-candle at the property line. This refinement is included in Section 3, *Revisions to the Draft EIR*. A detailed photometric study has been prepared. As shown on this study, because the light fixtures have been designed as full cut-off fixtures, there would be no horizontal light spillage as a result of project implementation. Any revisions to the photometric study will be included with the final lighting plan would also be required prior to issuance of a building permit. Additionally, prior to occupancy, the lighting improvements would be inspected by City enforcement personnel to confirm that lighting levels do not exceed requirements and the approved lighting plan.



2. Response to Comments

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2. Response to Comments

Letter R7 – Jean C. Browning (3 pages)

04/01/2008 21:40 FAX	001
Jean C. Browning 93 Ocean Vista, Newport Beach, CA 92660 Phone: (949) 644-7011 Fax: (949) 644-7456	
<u>FACSIMILE COVER SHEET</u>	
DATE:	April 1, 2008
TO:	Jaime Murillo, Associate Planner City of Newport Beach Planning Department
FAX:	(949) 644-3229
Total Number of Pages including this Cover Page: _____ <u>3</u> _____	
Message: Letter in opposition to the Hyatt Regency expansion project.	



2. Response to Comments

04/01/2008 21:40 FAX

002

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92663

April 2, 2008

Dear Jaime Murillo:

My husband and I live in the community of Sea Island, directly across Jamboree from the Hyatt Regency Hotel.

We attended a meeting of our Homeowners Association and listened to arguments for and against the expansion of the Hyatt Regency Hotel.

Our objection stems from the fact that Jamboree Rd. is one of the busiest streets in our city. This is substantiated by the fact that the City is going to use the intersection of PCH and Jamboree as one of the first intersections to have an improved method of traffic control. Allowing the Hyatt to expand their operation, which would substantially generate an increase in traffic, just does not make common sense.

R7-1

From our condo we now have, on a clear day, a view of Catalina Island and the Bay. Allowing three story structures on the property would minimize our view (the reason we purchased the property), which would greatly decrease our property's value. Another factor would be an increase in the volume of noise, crowds and bands, now attributed to the hotel.

R7-2

A valued 'green belt' would be eliminated by the loss of the golf course.

R7-3

2. Response to Comments

04/01/2008 21:40 FAX

003

There are too many buildings and roads in Newport Beach. We hope that you will at the very least greatly scale down the Hyatt's plans. | R7-4

Sincerely,



Jean C. Browning
93 Ocean Vista, Newport Beach, Ca. 92660-6228



2. Response to Comments

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2. Response to Comments

R7. Response to Comments from Jean C. Browning, dated April 2, 2008.

R7-1 The commenter's attendance at the Homeowner's Association meeting at which the project was presented by the applicant's representative, Government Solutions, is noted. Minutes of this meeting, which was held March 26, 2008, are included in Appendix E of this FEIR.

As detailed in DEIR Section 5.11, *Transportation and Traffic*, and included in the traffic report, DEIR Appendix L, the traffic impact analysis did not identify a significant impact to the intersection of Jamboree and Pacific Coast Highway due to traffic generated by the expansion of Hyatt Newport hotel.

R7-2 As documented in the DEIR, Section 5.1, *Aesthetics*, the City's General Plan and Coastal Land Use Plan focus on the protection of public views. The DEIR, does however, acknowledge that surrounding residential communities, including the Sea Island community, have views of the project site, including the existing golf course and greenbelt areas. Although project-related impacts to surrounding residents have determined to be less than significant, it is acknowledged that some existing views would be impacted by the project.

The proposed height of the building complies with the City's zoning code. As detailed on DEIR page 5.8-25, the project requires a use permit to allow heights up to 35 feet within the 26/36 feet height limitation zone that applies to the site. A modification permit is also required for the ballroom architectural tower and finial to exceed the height limit. Refer to Figure 7, *Ballroom Elevations*, in Section 3, *Revisions to the Draft EIR*.

The commenter's concern about a potential decrease in property value is acknowledged and will be forwarded to decision makers. This economic issue, however, is not in the realm of the environmental review under the California Environmental Quality Act.

As detailed in DEIR Section 5.9, *Noise*, the operation of the Hyatt Regency expansion would not generate noise levels that exceed the City's noise standards or substantially elevate existing noise levels in the vicinity of noise-sensitive land uses.

R7-3 The loss of the existing on-site golf course is acknowledged. This use is a private use, however, and is not designated as open space in the City's General Plan. Furthermore, the golf course is underutilized; it is estimated that there were a total of 5,522 rounds of golf sold at the Hyatt during 2007, or an average of 15.51 rounds per day. The golf course at the Hyatt has been envisioned for the development of 88 additional hotel units as a result of the Circulation and Improvement and Open Space Agreement adoption.

R7-4 The commenter's opinion on the scale of the project is acknowledged and will be forwarded to decision makers.



2. Response to Comments

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2. Response to Comments

Letter R8 – James & Katherine Murphy (2 pages)

April 2, 2008

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92663

Dear Mr. Murillo:

We are current residents of the Sea Island community of Newport Beach and want to share our concerns regarding the proposed changes to the Hyatt Newport Beach on Jamboree Road. It should be noted that we attended the Sea Island Owners meeting last week and found the information presented less than accurate and complete. For example, we were told that a new engineering building would not be constructed, while in fact the plans that have been submitted clearly call for the demolition of the current facility and the construction of the new building.

R8-1

Noise and Traffic

When special events now occur at the existing Hyatt, we do experience some increase in noise and traffic, which to date has been tolerable. The expansion of the ball room from a capacity of 200 to 800 will certainly bring more traffic and noise to our area and we feel that its impact will be detrimental to our quality of life. The planning for three additional entrances will not alleviate the traffic and noise on Jamboree Road.

R8-2

In fact, we are not sure that the proposed expansion of the ballroom to 800 seats was even considered in the agreement with Newport Beach when the land/use was granted several years ago and would question the need for this type of expansion.

R8-3

In addition, we recognize that the City approved the Hyatt's expansion plans and that expansion is consistent with the City's Master plan, but challenge the exchange of rooms permitted with time share units. The numbers associated with Time Shares will be significantly increased versus a normal hotel room.

R8-4



2. Response to Comments

The concerns above are for the future, we also have concerns about the noise, traffic and dust which will be created by the actual construction. Jamboree Road in the early morning/evening hours is heavily traveled and with the increase traffic flow, will block our entrance to Sea Island due the back up of traffic that will occur. The turn lane to Sea Island will be blocked by this back up of traffic, which today is only occasionally a problem (Boat Parade during Christmas).

R8-5

Vistas and Views

Your report on file says nothing about how the changes at the Hyatt will impact the vistas and views for the Sea Island Homeowners. As a matter of fact, the only vistas that were considered were the Hyatt's. We currently enjoy a wonderful view of green space and a sheltered/mature Hyatt view. In the future, we can look forward to being on our back deck and seeing not only new buildings where the green space is now, but to a two story parking garage with its lights glaring into our neighborhood.

R8-6

We would strongly encourage the Commissioners to come visit our neighborhood and look at what we will be losing in views and possible value in our homes. Any other place in Newport Beach, where the ocean is involved, frames would be erected to show the impact of the neighbors' views. To date, we simply have a Power Point presentation that was given to us and a lot of words. We might as well add, that the views that were depicted, weren't even relevant to what we see from our homes.

R8-7

We would like the planning commission to seriously consider turning down this land/use request and the plans associated with it, as it will not only have a serious impact on the quality of our lives, but it more than likely will seriously impact the value of our homes.

R8-8

Sincerely,

James & Katherine Murphy
37 Ocean Vista
Newport Beach, CA 92660

949.760.0156

2. Response to Comments

R8. Response to Comments from James and Katherine Murphy, dated April 2, 2008.

R8-1 The meeting minutes of the Sea Island Homeowner's Association Meeting with the applicant's representative are included in Appendix E. This meeting was conducted as community outreach by the applicant's representative, Government Solutions, to provide an overview of the project. The meeting was not sponsored by the City and was not part of the California Environmental Quality Act (CEQA) public notification or review process.

It is accurate that a new engineering building is not proposed under the proposed project. The building indicated on DEIR Figure 3-4, *Site Plan*, denotes an existing building as "New Housekeeping and Engineering." This will be a new use for the existing building, not a new building. As shown on DEIR Figure 3-5, *Demolition Plan*, the existing maintenance building (near to Back Bay Drive) would be demolished.

R8-2 DEIR Sections 5.9 and 5.11 provide a detailed, quantitative analysis of the noise and traffic impacts that would be caused by the proposed project. Although the project would generate additional noise and traffic, the long-term operational impacts of these impacts were determined to be less than significant.

R8-3 The provisions of the Circulation Improvement and Open Space Agreement (CIOSA), which vested development rights for the proposed expansion, are described in DEIR Section 3.2.2, page 3-1. As discussed under Impact 5.8-2, DEIR page 5.8-27, the CIOSA agreement is silent with respect to development of ancillary hotel facilities. The traffic study supporting the CIOSA, however, did utilize trip generation rates for the Hyatt Regency from the Newport Beach Traffic Analysis Model (NBTAM) that are comparable to the Institute of Transportation Engineers' (ITE) trip rate for hotels (Trip Code 31), which include supporting facilities such as banquet/meeting rooms, recreational facilities and retail shops.

R8-4 Regarding traffic, there is no difference in trip rates for hotel rooms and timeshares. Please refer to responses to letter A2 from the Coastal Commission regarding comparison of hotel rooms and timeshares and determination of whether the timeshares are an allowed use.

R8-5 As analyzed in DEIR Section 5.9, *Noise*, project-related construction noise would represent a significant, unavoidable impact of the proposed project. Air quality impacts, as analyzed in Section 5.2, however, including project-generated fugitive dust during construction activities, would be less than significant. Substantial concentrations of particulate matter would not be generated at adjacent residences.

With respect to the traffic concern, the table below summarizes the actual number of vehicles entering and exiting the site for the existing 403-room hotel during the AM and PM peak hours. Additional trips generated by hotel expansion (based on trip generation rates based on actual trips) are also summarized in the table. Additional traffic generated by the hotel expansion is significantly less than the number of trips generated by the existing hotel facilities.



2. Response to Comments

Table 4
Comparison of Existing and Proposed Hotel-Generated Vehicle Trips

Code	Land Use	Unit	Qty	Time Period	Enter	Exit	Total
					Trips	Trips	Trips
Existing Trips							
Hotel	Rooms	DU	403	AM Peak	138	88	226
				PM Peak	126	112	238
Additional Trips Generated by Hotel Expansion							
Hotel	Timeshare Units	DU	76	AM Peak	30	21	51
				PM Peak	31	27	58

The traffic impact analysis conducted for the proposed expansion of Hyatt project identified no significant traffic impacts to the intersection of Jamboree and Island Lagoon Drive, per the guidelines established by the City of Newport Beach. Left turn movements to access Island Lagoon Drive from southbound Jamboree Road would not be affected by additional traffic generated by the proposed expansion of Hyatt project.

- R8-6 As documented in the DEIR, Section 5.1, *Aesthetics*, the City's General Plan and Local Coastal Program focus on the protection of public views. General Plan policy NR 20.3 specifies public view corridors from various roadway segments that should be protected (see DEIR page 5.1-4). The DEIR does, however, acknowledge that surrounding residential communities, including the Sea Island community, have views of the project site, including the existing golf course and greenbelt areas. Due to heavy landscaping within the Sea Island community and on the Hyatt project site, most views of the Back Bay from Sea Island residents are limited. Although project-related impacts to surrounding residents have determined to be less than significant, it is acknowledged that some existing views would be impacted by the project.

The proposed lighting plan and the parking structure elevations are shown in Figures 3 and 4 of this FEIR, respectively. Lighting is subject to stringent City requirements and review as detailed under *City of Newport Beach Standard Conditions* on DEIR page 5.1-35. To clarify the maximum light spillage that would be allowed, the standard condition for this project has been refined to specify that spillage would not exceed one foot-candle at the property line. This refinement is included in Section 3, *Revisions to the Draft EIR*. A detailed photometric study in conjunction with the final lighting plan would also be required prior to issuance of a building permit. Additionally, prior to occupancy, the lighting improvements would be inspected by City enforcement personnel to confirm that lighting levels do not exceed requirements and the approved lighting plan.

- R8-7 These comments are noted and will be forwarded to City decision makers.
- R8-8 The commenter's opposition to the proposed project is noted and will be forwarded to decision makers.

2. Response to Comments

Letter R9 – Karen Lucian (7 pages)

Dear Jaime -
 Re: Proposed Hyatt Regency Expansion
 Jaime Murillo
 Associate Planner
 City of Newport Beach Planning Dept.
 3300 Newport Blvd
 Newport Beach, Ca.
 92663

Greetings:
 First I would like to say that you are
 very pleasant on the phone.
 Here are my concerns:
 Ch. 5 Environmental Analysis:
 Section 5.2 - Air Quality

This completely ignores that a golf
 course that gives off LOTS of positive O₂
 will be torn up and taken away.

Liberal, a ballroom for approx
 200 people will be replaced by a
 mega-facility for over 800 people.

-1-



R9-1

R9-2

2. Response to Comments

The U.C.S.B. main theatre/auditorium only holds 900, and this is a major university.

Why, next to Jamboree, which is already over-burdened, should we put a facility that rivals some of the biggest lecture halls in California?

Of course the air quality will decline.

When you take out the golf course and add 800+ people, busting out of the doors to take cigarette and cigar breaks (instead of 200+ people), of course the air quality will decline ON THE SPOT!!!

Jamming over 800 people into a small area always causes stress which produces smoking.

So some will smoke by the doors of the new auditorium, and many will want to lit up in the parking lot - A FIRE HAZARD.

R9-2
(cont'd)

R9-3

-2-

If only $\frac{1}{3}$ of these smoke, then you will have close to 300 lit cigarette butts being thrown out on Janney at the beginning and end of the evening.

R9-3
(cont'd)

Ridiculous to say no impact on air quality. If that were the case, why have all domestic flights eliminated smoking?

Section 5.7

Hydrologized water quality

Why bring a muddy group of over 800 into one area to over-use our toilets and bathrooms? Water is precious, and normally these visitors will be paying for it, so they will be wasting it instead. When it seems to be free, masses of people tend to disregard the underlying cost and value.

R9-4



2. Response to Comments

March 5, 11 - Transmittal and Traffic

been

5) Maximizing aesthetic view opportunities?

Why put up a 30' + bell tower?
They already have one. Bell towers
are very Spanish, and I guess no
one noticed that fact is not Santa
Barbara. This is Newport Beach - you
do not put up bell towers at the beach.
If anything, the existing one should
be torn down.

R9-5

How about just leaving the
ballroom at its existing size?

I can promise you, when people
use the ballroom, some of whom have been
drinking, they will collide with residents
from Bay View or big trailers leaving
the Dunes.

R9-6

-4-

2. Response to Comments

In exchange for pandering to a developer that does NOT live in the area, the city is exposing itself to a very big liability that will result as a result of traffic fatalities that will ensue as a result of overburdening that section of Jambovie that serves the Dunes and the Bay View, and now is supposed to also permit over 800 dancers or visitors?

R9-7

Why would the city want to multiply the number of accidents on Jambovie? We have at least 3 a day now.

R9-8

I myself was hit by a driver coming from the direction of the Hyatt who ran a red light in front of the police station at 11am in the morning.

R9-9

-5-



2. Response to Comments

I know there will be many more accidents
as a result of increased patronage at night.

R9-9
(cont'd)

To conclude:

Reduce the size of the ballroom
back to the existing 2000+.

Do not add another ridiculous
bell tower, a harbinger of Spanish
architecture, totally out of place
next to a beach.

R9-10

This property backs up to one of
the biggest preserves west of the Mississippi.
Why do you want to ruin it with an
unnecessary expansion of a ballroom
and elimination of a golf course.

R9-11

-6-

2. Response to Comments

As for adding a spa and a pool; very few spas in Newport Beach ever book to capacity, and pools are usually on used 3 months per year.

R9-12

The golf course can be used year around, so why pave over it?

Newport Beach has very little natural beauty left.

Do you not have any feeling for leaving grass on this earth?

Each of us should try to make this world a better place.

R9-13

What is better about adding a ballroom that will be partially vacant, an under used spa, and a slightly used additional pool with all the resultant harm to the environment?

Kate Lucia



2. Response to Comments

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2. Response to Comments

R9. Response to Comments from Karen Lucian, dated April 3, 2008.

- R9-1 The DEIR does disclose that the existing golf course would be eliminated upon project implementation. The overall project would result in a reduction of recreational uses. Existing recreational areas at the project site comprise 13.03 acres, or 54.5 percent of the site, in comparison to the proposed project, which would include 9.65 acres, or 40.4 percent of the site. Note also that potential project-related impacts on global climate change are analyzed in under Impact 5.2-2, DEIR page 5.2-16. These impacts were determined to be less than significant.
- R9-2 Potential project-related impacts, including impacts associated with the proposed ballroom, are addressed for each topical area analyzed in the DEIR. As included in the Statement of Objectives, DEIR Section 3.3, one of the project objectives is to “Develop a new, larger ballroom facility to assist in meeting conference needs for the City of Newport Beach.” The potential demand for such a facility was supported by a study conducted by PKF Consulting on behalf of the City of Newport Beach and the Newport Beach Conference and Visitors Bureau (please see response R5-2).
- R9-3 Smoking will be limited to outdoor designated areas only. Due to the distance between the facility and off-site receptors, concentrations of second-hand smoke that could affect off-site receptors would be negligible. Potential cigarette smoking in other areas of the project site, including the parking lot, would be similar to any other developed, commercial use. A detailed Fire Protection Plan was prepared for the proposed project and is included in DEIR Appendix H. The custom mitigation measures included in the report have been incorporated into the project and are also included in DEIR Section 5.6, *Hazards and Hazardous Materials*. Measures include structural requirements, fire protection systems, defensible space, and vegetation management. Fire hazards have been concluded to be less than significant for the project.
- The DEIR does not conclude that there would be no project impact to air quality. As evaluated in DEIR Section 5.2, *Air Quality*, short- and long-term project-related emissions were determined to be less than the South Coast Air Quality Management District thresholds and therefore the project impact would be less than significant.
- R9-4 With the exception of the potential project-related impact on water supply and wastewater services, this comment is not within the purview of the California Environmental Quality Act (CEQA) or the EIR for the proposed project. The proposed project is consistent with the General Plan designated land use for the project site and as disclosed in the project Initial Study (see DEIR Appendix A, Initial Study, Section 3.16), the General Plan Update EIR concludes that development in accordance with the plan would result in a less than significant impact to water supply and wastewater services.
- R9-5 The commenter’s opinion of the proposed architecture is noted and will be forwarded to decision makers. Although aesthetic impacts are inherently subjective, the purpose of the DEIR is to provide an objective, technical analysis of the impacts. The DEIR provides a comprehensive disclosure of the physical impacts to the site, including height information and architectural details (please also see additional view simulations included in Section 3, *Revisions to the Draft EIR*).



2. Response to Comments

The proposed height of the building complies with the City's zoning code. As detailed on DEIR page 5.8-25, the project requires a use permit to allow heights up to 35 feet within the 26/36 feet height limitation zone that applies to the site. A modification permit is also required for the ballroom architectural tower and finial to exceed the height limit.

- R9-6 One of the objectives of the proposed project is to provide a larger ballroom at the site. These objectives are listed on DEIR page 3-2 and include: "Develop a new, larger ballroom facility to assist in meeting conference need for the City of Newport Beach." The potential opportunity for expanded ballroom facilities or conference centers in existing hotels was identified in a revenue enhancement study conducted by PKF Consulting on behalf of the City of Newport Beach and the Newport Beach Conference and Visitors Bureau.³ A preliminary study for the potential market demand for a conference or convention center was conducted, which evolved into a revenue enhancement study for Transient Occupancy Tax for the City. The study's primary findings included an example of Public-Private partnerships that could allow for the development of a large ballroom or conference center at one of the existing hotels which would allow the City of Newport Beach to increase its level of rooms demand by appealing to group demand segments not currently able to be accommodated within the community.

Potential traffic impacts, including traffic on Back Bay Drive, were analyzed in the project's traffic study, DEIR Appendix L. As summarized in DEIR Section 5.11, *Transportation and Traffic*, the project would not result in significant traffic impacts.

- R9-7 Within the vicinity of the proposed project, Jamboree Road trends north-south and generally consists of three lanes in each direction. Adjacent to the project site, vehicles traveling along Jamboree Road have very good sight distance. Staff has reviewed the accident data for a three-year period (2005-2007) at the intersections of Jamboree Road/Island Lagoon and Jamboree Road/Back Bay Drive. The table below summarizes the accident data at these intersections.

Table 5
Accident History for 2005 through 2007

<i>Intersection</i>	<i>Total Accidents</i>	<i>Rear-End SB Jamboree #3 Lane</i>	<i>Cause of Accidents</i>
Jamboree Road/Island Lagoon	11	7	Traffic Stopped, Citation for Unsafe Speed
Jamboree Road/Back Bay Drive	15	2	Traffic Stopped, Citation for Unsafe speed

Based on the accident data for the intersections of Jamboree Road/Island Lagoon and Jamboree Road/Back Bay Drive, the rear-end accidents in the southbound number three lane on Jamboree Road adjacent to the project site were all attributed to drivers operating the vehicles at unsafe speeds. It is not anticipated that the

³ PKF Consulting, February 15, 1997

2. Response to Comments

- proposed project would cause an increase in traffic accidents along Jamboree Road adjacent to the proposed project.
- R9-8 Please refer to Response R9-7.
- R9-9 Please refer to Response R9-7.
- R9-10 The commenter's request to reduce the size of the proposed ballroom and modify the proposed architecture is noted and will be forwarded to decision makers.
- R9-11 As shown on DEIR Figure 5.3-1, *CIOSA Space Dedication Adjacent to Hyatt Regency*, the natural open space directly north and northeast of the project site was part of the open space dedication included in the Circulation and Improvement and Open Space Agreement (CIOSA), which vested the entitlement for the hotel expansion. The potential project-related impacts on the surrounding open space and environmentally sensitive habitat areas (ESHAs) are evaluated in DEIR Section 5.3, *Biological Resources*, and have been concluded to be less than significant with implementation of recommended mitigation measures.
- R9-12 The proposed 10,072-square-foot spa and fitness facility would be available for use by the hotel guests and the general public. It is estimated that there were a total of 5,522 rounds of golf sold at the Hyatt during 2007, or an average of 15.51 rounds per day. The golf course at the Hyatt is underutilized and has been envisioned for the development of 88 additional hotel units as a result of the CIOSA adoption.
- R9-13 The existing Hyatt property is completely developed, and the proposed project, therefore, would not result in modifying natural, undisturbed property. Although the golf course would be removed, much of the project site would remain as open space. Existing open space at the project site comprises 13.03 acres, or 54.5 percent of the site, in comparison to the proposed project, which would include 9.65 acres, or 40.4 percent of the site. Also note that an extensive landscape plan, as shown in Figure 8 in Section 3, *Revisions to the EIR*, would be implemented for the project.



2. Response to Comments

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2. Response to Comments

Letter R10 – Dolores Otting (3 pages)

Date:	4 th April 2008	
To:	Jaime Murillo, Associate Planner City of Newport Beach Planning Department	
From:	Dolores A. Otting	
Subject:	Comments on Hyatt Regency DEIR	
Reference:	Hyatt Regency Newport Beach expansion Environmental Impact Report SCH NO. 2006121052, February 2008. Extension date to April 04, 2008 Page 1 of 3 including this page	

RECEIVED BY
PLANNING DEPARTMENT
APR 04 2008
CITY OF NEWPORT BEACH

Dear Mr. Murillo,

Thank you for your time and including my comments and questions on the Hyatt project.

I felt the DEIR was an excellent tutorial, but did very little to describe the mitigation measures needed to comply with CEQA.

The Environmental checklist found in the Notice of Preparation, Initial Study, lists numerous potentially significant impacts such as Under Aesthetics, a) Have a substantial adverse effect on a scenic vista? The box marked with an X was PSI- Potentially Significant Impact, yet when the reader then goes to the DEIR under Executive Summary, it now states the it is less than significant with no mitigation measure necessary. This is very confusing to the reader as they search through the DEIR to find where and how it was mitigated, but cannot find it- the Mitigation Measure. This is only one example of many through out the Summary and DEIR. I am of the understanding that the NOP and DEIR are in the end one document- one cannot exist without the other?? If that is the case, how can they be so inconsistent with each other (the NOP Environmental Checklist and the DEIR Executive Summary.

It appears to be a great project, however, I really feel that the DEIR should be redone and recirculated - there are too many holes.

Respectfully,
Dolores A. Otting
Dolores Otting

R10-1

R10-2

1 of 3



2. Response to Comments

5.5 Geology and Soils

There are inconsistencies in this section as well as many other sections.

Pg. 5.5-7 states, "Groundwater was encountered in numerous borings excavated during the geotechnical investigation of the project site.

Yet in the appendices, 4.3 Earthwork, 4.3.1 General, it states the following:

" The earthwork recommendations that follow have been based on the evaluation of limited subsurface explorations performed to date. As soil conditions can vary, sometimes significantly, across short distances, earthwork recommendations may need to be modified based on the results of future design-level geotechnical studies. The recommendations that follow provide our best estimate if remedial grading based on the limited data available.

R10-3

Are DEIR's supposed to be filled with guesses or are they based on facts? How can the reader and the public feel comfortable/safe? How can any mitigation measures be made when they are unsure and don't know what they are supposed to mitigate?

There were comments made in the Geotech Feasibility Study by Kleinfelder that were not included in the hardcopy DEIR regarding retaining walls sec 4.9 Retaining Walls, page 25 -
" The earth pressures provided assume that the non expansive backfill will be used and a drainage system will be installed behind the walls, so that external water pressure will not develop. If a drainage system will not be installed, the wall should be designed to resist an additional hydrostatic pressure. and it goes on to

page 26 Para 3-

"Care must be taken during the compaction operation not to overstress the wall. Wall backfill should be compacted to at least a 90% relative compaction; however, heavy equipment should be maintained a distance of at least 3 feet away from the walls while the backfill soils are being placed. Kleinfelder should be contacted when development plans are finalized for review of wall and backfill conditions on a case-by-case basis.

Aren't these comments deferred mitigation? Due to the seismic conditions, expansive soil, and unstable fill, shouldn't the public be aware of what mitigation measures will be used to ensure the safety of the retaining walls and the project itself?

R10-4

Page 26, Para 4-

"Walls should be properly drained. Adequate drainage is essential to provide a free-drained backfill condition and to limit the hydrostatic buildup behind the wall. Walls SHOULD also be appropriately waterproofed.... " it goes on

Since this is found in the appendices by the consultant who states they should be waterproofed, if this consultant is not chosen to do the project, then don't we have the same problem of deferred mitigation? Since the project will include retaining walls should there be mitigation measures and a description of what type of walls would be best suited to the project due to borings and locations?

2 of 3

2. Response to Comments

Also, there was mention made in the Study to water sealing under the buildings and walkways, shouldn't the whys and why nots be described in this DEIR with the appropriate mitigation measures described to the public to ensure the safety of the walkways and buildings?

R10-5

Also shouldn't there be a discussion of how they will deal with the waterproofing, what products will be used, and what their life expectancy is? Again, where are the mitigation measures to make sure the water under bldgs and walkways is taken care of and the Mitigation measures that describe with the pumping of water during excavation of the site?

Page 5.5-13 Section 5.5.7 Mitigation Measure

Impacts 5.5-1, 5.5-3, 5.5-4 (5.5-2 is missing from the heading and missing from Sec 5.5.6)

Due to the Seismic nature of the area, as well as, soil expansion that can occur, doesn't there need to be a written plan that demonstrates how the grading will occur which also incorporates with mitigation measures set in place so that the Public can determine what the impacts are? Isn't that why we have CEQA?

R10-6

I found it difficult to match the Impacts with the Mitigation Measures. When I could, I found no measures in place, but instead deferred mitigation, which in itself could and will create a host of other problems since they(the applicant / the DEIR) describe and state that there is a limited amount of soils work that has been completed. There is such a lack of soils work that it appears it could result in substantial changes to the project –more excavation, more fill, more truckloads, more traffic, more fugitive dust, more time, more money.

Shouldn't they have a plan prior to the project having approval?

It also says 5.5-2 needs mitigation – potentially significant on page I-15, then on page I-16 measure in the executive summary goes on to say 'less than significant' and 'no mitigation measures are necessary.' The DEIR then goes onto page 5.5-13- and describes mitigation measures for 5.5-2. This is only one of the *many instances of inconsistency and confusion within the document.*

R10-7

3 of 3



2. Response to Comments

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2. Response to Comments

R10. Response to Comments from Dolores Otting, dated April 4, 2008.

- R10-1 Under the California Environmental Quality Act (CEQA), both the Notice of Preparation (NOP) and Initial Study are part of the preliminary review of a project to determine the environmental analysis that will be required for a proposed project. When an EIR is required, both are used to “scope” the contents of the EIR. An Initial Study conclusion that an impact may potentially result in a significant impact serves as the finding that the given impact must be further addressed in an EIR. It does not necessarily mean that once analyzed, that impact would be significant and/or require mitigation. Similarly, the NOP is used to solicit feedback from the public and responsible and trustee agencies on the scope of the analysis that should be included in the EIR.
- R10-2 The DEIR is consistent with CEQA and does not require recirculation.
- R10-3 Please refer to Response O1-20 regarding groundwater level and potential project-related impacts.

The Geotechnical Feasibility Study prepared by Kleinfelder (see DEIR Appendix F), is a design-level study as typically prepared for a DEIR. The study concludes that, from a geotechnical perspective, the project can be developed as planned, provided that the recommendations of the report are incorporated into design and construction. A design-level study is appropriate at the level of analysis that is provided for in a draft EIR. The design-level study sets forth a description of the geotechnical conditions that can be anticipated to be encountered during site development and the means by which those conditions can be addressed. As it is not possible at this point in the process to fully excavate a site—particularly where there are existing uses—a design-level study must make certain recommendations to be implemented once site conditions are revealed through grading and excavation. As set forth in Mitigation Measure 5-3, the City has required that prior to issuance of grading permits, the site-specific remedial measures would be identified through preparation of a detailed engineering geotechnical investigation report. The subsequent engineering-level report would be prepared and approved prior to issuance of a grading permit. Pursuant to the recommendations in the Kleinfelder report and mitigation measures provided in the DEIR, the subsequent report would include the engineering-level analysis of potential expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions. By requiring preparation of the engineering-level report and implementation of the specific measures identified in the design-level study and the engineering-level report, the City has committed itself to a course of action that would result in mitigation of any geotechnical impacts, and has set forth the standards and procedures that can be utilized to address those conditions.

This commenter notes that some of the information and comments included in the Kleinfelder Geotechnical Feasibility Study are not included in the hardcopy DEIR (retaining walls, wall backfill compaction, etc.). The appendices, including the technical reports in their entirety, are part of the DEIR. In an effort to prepare a useable document for disclosure of potential project impacts for both agency and



2. Response to Comments

general public use, it is not practical to include all of the detail in the technical studies in main volume of the DEIR.

DEIR Mitigation Measure 5-3 specifies the requirement for an engineering-level geotechnical report to address the issues identified in Kleinfelder report. To more specifically assure that the Kleinfelder study recommendations are implemented, this mitigation measure is revised as follows (see also, Section 3, *Revisions to the Draft EIR*):

5-3 Prior to issuance of grading permits, a detailed ~~design~~**engineering**-level geotechnical investigation report shall be prepared and submitted with engineered grading plans to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions and to provide site-specific recommendations to address these conditions, if determined necessary. **The engineering-level report shall include and address each of the recommendations included in the geotechnical report prepared by Kleinfelder as included as DEIR Appendix F (Kleinfelder, November 29, 2004, Project No. 61618).** The geotechnical reports shall be prepared and signed/stamped by a Registered Civil Engineer specializing in geotechnical engineering and a Certified Engineering Geologist. Geotechnical rough grading plan review reports shall be prepared in accordance with the City of Newport Beach Grading Ordinance.

R10-4 As set forth in Response R10-3, the design-level study has identified the geotechnical condition to be addressed, the standard that must be met to ensure a stable site (i.e., compacted to at least a 90 percent relative compaction), and the methods that can be employed to address the condition (e.g., heavy equipment should be maintained a distance of at least three feet away from the walls). Where such standards are set forth, the identification of specific measures during the course of finalizing plans is not an improper deferral of mitigation. With respect to the commenter's question regarding Paragraph 4 on page 26, the City's requirement that a engineering-level report be prepared prior to issuance of grading permit ensures that the recommendations identified in the design-level study are properly carried forward in the engineering-level report.

R10-5 Please refer to Responses R10-3 and R10-4.

R10-6 Impact 5.5-2 is missing from the referenced subheading because the DEIR concludes that this impact would be less than significant and would not require mitigation. This conclusion and reference is found in the sentence under the Section 5.5.6, *Level of Significance Before Mitigation*.

Section 15002 of the CEQA Guidelines states the purposes of CEQA as the following:

(1) Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities.

2. Response to Comments

(2) Identify the ways that environmental damage can be avoided or significantly reduced.

(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

(4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

The DEIR meets these requirements. A “written plan that demonstrates how the grading will occur” is not necessary to meet these objectives. A description of the proposed project, including construction information on grading quantities, phasing, demolition activities, infrastructure plans, etc., is included in DEIR Chapter 3, *Project Description*. Exhibit showings cut and fill areas for grading is included in this FEIR (see Section 3, *Revisions to the Draft EIR*).

R10-7 Impact 5.5-2 is not referenced on page I-15. On Page I-16, it is correctly noted as “Less than Significant” in both the “Level of Significance Before Mitigation” and the “Level of Significance After Mitigation” columns of the table. On page 5.5-13, no mitigation measures are listed for Impact 5.5-2 (see also Response R10-6). There are no inconsistencies regarding this impact.



2. Response to Comments

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2. Response to Comments

Letter R11 – Sandra Genis (19 pages)

SANDRA GENIS
1586 MYRTLEWOOD COSTA MESA, CA. 92626 PHONE/FAX (714) 754-0814

April 4, 2008

Jaime Murillo
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: DEIR for the Hyatt Regency Newport Beach Expansion (SCH 2006121052).

Dear Mr. Murillo,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Hyatt Regency Newport Beach Expansion (SCH 2006121052). These comments are submitted on behalf of Mr. Larry Porter and myself.

It is my understanding that the project will entail the construction of eighty-eight (88) time-share units at the existing Hyatt Regency Newport Beach, a 10,072 square foot spa and fitness building, additional ballroom space providing 11,032 net square feet (24,387 gross square feet), and a parking structure. Twelve guest accommodations provided in the existing villas and the existing 3,190 square foot ballroom will be demolished.

R11-1

The EIR must fully identify the use of the EIR

The stated purpose of the EIR (p. 2-1) is to inform the City of Newport Beach and responsible agencies of the potentially significant environmental impacts and related mitigation measures associated with implementation of the proposed project and alternatives to the project. As noted on Page 3-35 of the DEIR, the project will entail approval of a use permit to allow hotel expansion and to allow a height of 35 feet in the Shoreline Height limitation District: a modification permit to allow additional height for the architectural feature and to allow tandem valet parking; and a development agreement by the City of Newport Beach, which is the lead agency for the subject EIR.

R11-2

Based on information elsewhere in the DEIR (p. 5.6-16), it appears that the City would also be requested to approve removal or alteration of vegetation on city-owned property north of the project site. In addition, based on the building sections shown on Figure 3-6 (p. 3-15) and asserted building heights, it appears that the applicant would be requesting an establishment of grade in accordance with Section 20.65.030 B 3 of the Newport Beach Municipal Code. Alternatively, approval of a variance to exceed the allowable height may be required, as discussed below.

The EIR would also be used as an information document by other public agencies in connection with any approvals or permits necessary for implementation of the project. These

R11-3

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2. Response to Comments

include the California Coastal Commission, State Water Resources Control Board and South Coast Air Quality Management District (p. 3-35).

R11-3
(cont'd)

The DEIR is improperly limited scope.

The following topics are addressed in the DEIR:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation and Traffic

R11-4

The following topics are not addressed in the DEIR:

- Agricultural Resources
- Mineral Resources
- Population and Housing
- Public Utilities
- Recreation

The latter three of these topics must be addressed. The project could potentially cause impacts related to each of the matters omitted.

There is no information as to whether existing water lines, sewer lines and pump stations serving the site are adequate, whether in the DEIR or Initial Study for the project. This must be addressed, along with adequacy of water supplies. The EIR must also include a discussion of energy consumption, available supplies and facilities, and conservation measures to be incorporated into the project. It is noted that Page 2-2 of the DEIR indicates that Utilities and Service Systems are identified as potentially significant and were not identified as a topic not to be addressed, though no further discussion is provided in the DEIR.

R11-5

The proposed project would be expected to result in the creation of additional service sector jobs. The EIR must address increased employment on-site and availability of housing for future employees, taking into consideration the expected income of future employees and local housing costs. Where are future employees expected to reside and with what impact?

R11-6

The EIR must address long term effects on recreation due to elimination of the existing golf course and changes in the recreation experience afforded at Newport Dunes and the Upper Bay in general. The EIR must also address short term effects of construction on nearby recreation

R11-7

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facilities, including access to Back Bay Drive.

R11-7
(cont'd)

The stated project objective is so narrow as to exclude nearly all alternatives

In accordance with Section 15124(b) of the CEQA Guidelines, a project description must include

A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

An agency cannot define its objectives in unreasonably narrow terms. Project objectives must be stated clearly enough to be useful when considering project alternatives and stated broadly enough to allow for consideration of alternative means of achieving the broader purposes of the proposed project. It is against the project objective that project alternatives and mitigation measures are evaluated. In this case, the project objective has been defined so narrowly as to exclude nearly all alternatives except the proposed project. While the project objective (p. 3-2) includes some generalized goals, such as “to create an attractive viable project”, the first objectives listed include “to expand the hotel ... to provide 479 rooms” and “to obtain a development agreement to operate the rooms as time shares”, thereby excluding any alternative except construction of additional space to provide 479 rooms and develop time shares. As currently presented the objective does not so much “aid decision makers” as pre-empt decision makers. This is inappropriate, and the objective must be revised.

R11-8

In addition, the project objective proposes to meet a need which has not been demonstrated to exist, i.e. “to assist in meeting conference needs for the City of Newport Beach”. Has any such need been identified in any quantified studies? What are those studies, and what is the quantified need?

R11-9

The DEIR does not provide an accurate and complete project description.

A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is the denominator of the document and, thus, of the public’s and decision-maker’s review. A vague or ambiguous project description will render all further analyses and determinations ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

R11-10

Perhaps the greatest deficiency is the description of landform modification and grading. While the DEIR indicates how much earth will be moved, how long it will take, and what equipment will be utilized, nowhere does the document indicate what areas will actually be subject to grading. A cut and fill map must be included. In addition the EIR must include information as to maximum depth to be excavated.



2. Response to Comments

The EIR repeatedly mentions future landscaping (pp. 5.1-31 through 33), but no landscape plans are provided. It is also not clear whether on-site amenities are intended for use only by hotel guests or for the public generally. The EIR also misstates the height of the proposed buildings when measured in accordance with the City Municipal Code, as discussed below.

R11-11

The DEIR does not accurately reflect the Newport Beach Height Limitations

The DEIR asserts that building height, with the exception of the ballroom tower, will not exceed the 35 foot height limit (p. 3-10). In accordance with Section 20.65.030 B of the Newport Beach Municipal Code, building height is to be measured from the “unaltered natural vertical location of the ground surface” unless the City approved a grading plan or map at the time of subdivision, the site is located in a flood hazard area or grade is established by the Planning Commission upon the following findings:

- a. That the proposed grade being requested by the applicant is reasonable and comparable with the grades of surrounding properties and that the establishment of such grade will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City;
- b. That the proposed grade and related development will not result in the loss of any public views and shall be consistent with the existing character of the neighborhood in which the project is located;
- c. That the existing grade on the subject property, is inappropriate and unworkable for the purpose of measuring height;
- d. That the proposed grade being requested by the applicant is necessary for the preservation and enjoyment of substantial property rights of the applicant.

R11-12

The building sections shown on Figure 3-6 (p. 3-15) delineate the height of structures *not* from natural, existing grade, but from altered, finished grade, which in several locations is well below natural grade, as identified in the sections. This appears to be the case for Time Share Buildings 2 and 6 in Section A-A, the ballroom in Section B-B, and Time Share Building 5 in Section D-D. Thus, the height of the proposed structures would actually exceed 35 feet when measured in accordance with Section 20.65.030.

The proposed development includes a tower which would be 57.5 feet above finished grade with a finial extending five additional feet into the air. As shown in Section B-B (Figure 3-6, p. 3-15) the height above natural grade as shown in Figure 3-6 would actually be several feet higher. In accordance with Municipal Code Section 20.65.070 A:

R11-13

Architectural features such as, but not limited to, cupolas, weathervanes, open protective railings for stairways, and **other decorative roof-top features of an open nature** [emphasis added], and solar equipment, but excluding parapet walls,

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<p>may be permitted in excess of permitted height limits subject to the approval of a modification permit.</p>	<p>R11-13 (cont'd)</p>
<p>The proposed tower as shown in Figure 5.1-8 (p. 5.1-23) appears to be bulky and solid with a few openings that barely diminish the sense of mass. As depicted in Figure 5.1-8, the tower is quite solid until many feet above the 35 foot height limit. In fact, the tower appears similar in bulk to an additional building story with a fairly small window. This does not appear to be a minor, open feature as intended under the code.</p>	
<p><u>The project has expanded beyond that contemplated in the Notice of Preparation</u></p>	
<p>The Notice of Preparation (NOP) for the proposed project makes no mention of the proposed tower, which exceeds the Shoreline Height Limit. Likewise, the NOP makes no mention of the proposed fuel modification on public open space. These project elements go beyond the development envelope described in the NOP and could have elicited additional comments from those responding to the NOP or caused other individuals to respond as well. Thus, the NOP should have been recirculated to reflect these elements prior to release of the DEIR.</p>	<p>R11-14</p>
<p><u>The DEIR relies on illusive measures to eliminate or mitigate impacts.</u></p>	
<p>In the few cases where a potential impact is acknowledged, suggested mitigation measures often rely on future investigations or would be implemented only where “feasible” or “practical”. For example, in order to protect gnatcatchers, grading would occur out of nesting season “to the extent practicable” (Measure 3-1, p. 5.3-24), and other measures would be carried out “to the extent practicable” (p. 5.3-25) though it is not stated who will determine whether or not a measure is “practicable”. Still, the DEIR assumes that impacts will be reduced or eliminated by these measures which may never be implemented.</p>	<p>R11-15</p>
<p>The DEIR also relies on future plans or studies to mitigate other impacts. The DEIR concludes that no significant impacts due to geologic conditions will occur due to unknown future recommendations to be developed in a future study (Measures 5-3 and 5-4, p. 4.5-14). Not only does the DEIR fail to demonstrate that the yet-to-be-determined measures will mitigate impacts, there is not guarantee that the yet-to-be-determined measures will not generate impacts of their own. For example, if corrosive soils had to be removed, grading and construction traffic would potentially be affected.</p>	<p>R11-16</p>
<p>The DEIR sets up a peculiar circular logic that correctly states that an EIR is intended to provide the information needed to evaluate future plans and permits (p. 3-35) and then postulates that impacts will be eliminated due to approval of those very future plans or permits which are not yet prepared but are supposed to be evaluated by the EIR.</p>	<p>R11-17</p>
<p>The DEIR assumes that impacts of valet parking will adequately be addressed through a yet-to-be-prepared valet parking plan to be approved by the City, yet the DEIR states (p 3-35) that</p>	<p>R11-18</p>



2. Response to Comments

it is the intent of the DEIR to enable the City of Newport Beach, other responsible agencies, and interested parties to evaluate the impacts of the proposed project, thereby enabling them to make informed decisions with respect to the requested entitlements... as follows... City of Newport Beach... Modification Permit-to allow tandem valet parking...

R11-18
(cont'd)

How can the EIR enable the City to evaluate future approval of tandem valet parking, if the EIR simply indicates that impacts will be mitigated through the yet-to-be-prepared parking plan, a plan which would be approved by the City, theoretically based on an evaluation "enabled" by the EIR, which provides virtually no information as to what would be in the yet-to-be-prepared plan?

Even more disturbing, the DEIR concludes that potential impacts would be eliminated due to measures that are not even enumerated as project mitigations which, at least, would be subject to a mitigation monitoring program. It is concluded that no aesthetic impacts would occur because "the landscape scheme would soften the features and massing of the ... buildings and help minimize the visibility of the buildings" (pp. 5.1-31 through 33), yet no particular landscape scheme is presented nor is any required. In fact, in fuel modification areas vegetation would be limited to eight to eighteen inches (p. 3-20), hardly conducive to minimizing visibility.

R11-19

Potential impacts on water quality during construction would be eliminated by a yet-to-be-prepared Stormwater Pollution Prevention Plan (p. 5.7-26 & 27) which may contain certain elements and submission of a notice of intent which would be reviewed by State Water Resources Control Board "enabled" by the DEIR "to evaluate the impacts of the proposed project, thereby enabling them to make informed decisions with respect to the requested entitlements" (p. 3-35), despite the fact that the DEIR provides no evaluation or information regarding the SWPPP.

R11-20

Similarly, the DEIR indicates that project operations will not result in impacts because "the project will incorporate ... site design BMPs *where feasible* [emphasis added]" (p. 5.7-29) and because other source control measures would be incorporated into the project (p. 5.7-30). These include ongoing measures regarding landscaping and maintenance of catch basins. In light of the fact that these are not included as mitigation measures subject to mitigation monitoring, how would the City ensure implementation? Any measures designed to reduce or eliminate impacts must be adopted as conditions of approval and included in the mitigation monitoring plan.

Cumulative Impacts

For purposes of cumulative impact analysis, the DEIR includes a list of projects approved under the City's Traffic Phasing Ordinance (Table 4-1, p. 4-7) and a list of anticipated projects (Table 4-2, p. 4-8). The same lists of projects are ostensibly utilized for consideration of all cumulative impacts. The lists include only projects anticipated within the City of Newport Beach and only those anticipated to generate enough traffic to warrant study under the TPO. Projects which

R11-21

have little impact on traffic, though they may create other impacts unrelated to traffic, are not included nor are any projects outside the Newport Beach city limits.

In accordance with Section 15130 (b)(3) of the Guidelines for the Implementation of the California Environmental Quality Act, lead agencies are to provide a reasonable explanation for the geographic limitation used. The lead agency should also consider the nature of the resource being examined (15130(b)(2)). The DEIR provides no rationale for selecting the defined geographic area for analysis of cumulative impacts, and the area in question does not necessarily reflect the context of the impact being examined. This must be addressed.

R11-21
(cont'd)

Significance Thresholds

It should be noted that Appendix G of the CEQA Guidelines does not state what would or would not “normally” be a significant impact as maintained in the DEIR (p. 5.1-9, 5.2-13, 5.3-18. et al) but rather provides what are clearly stated to be “SAMPLE QUESTIONS”, e.g.:

- I. AESTHETICS -- Would the project:
 - a) Have a substantial adverse effect on a scenic vista?
 - b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
 - c) Substantially degrade the existing visual character or quality of the site and its surroundings?
 - d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

R11-22



As explained in Guidelines Appendix G, local agencies are free to develop their own formats and should identify the significance criteria used to evaluate each question. The questions themselves do not constitute thresholds of significance. In fact, thresholds for determining significance are clearly to be determined at the discretion of the lead agency (*Communities for a Better Environment v. California Resources Agency*, 126 Cal. Rptr. 2d. 441, Cal.App.3 Dist., 2002).

Specific Flaws in the DEIR

In addition to the essential systemic flaws discussed above, the EIR must address the comments and questions below regarding how specific information in the DEIR is presented. Each of these items is itself, though, so basic that each must be addressed in order for the DEIR to be considered legally adequate and to provide decision makers and the public with the information needed to evaluate the proposed project and its impacts.

R11-23

Project Description

1. The EIR must identify the height of the proposed structures above existing grade.

2. Response to Comments

2. Will the spa and fitness center be available for use by the general public?
3. Will the time share clubhouse be available for use by time share members in the area outside their specific time share period or will it be restricted?
4. What is the footprint, in square feet, of the proposed tower?
5. Will the tower include any habitable or usable space?
6. Will the tower have any observation function for hotel guests or other visitors?
7. Will parking for the various uses in the various lots be physically separated? Would it be necessary for a vehicle to leave the lots closest to Jamboree and utilize the public street to reach the lots closest to Back Bay Drive?
8. A clear site plan showing all existing development must be included in order to provide for a comparison of the proposed plan to the existing site. Most existing development in Figure 3-5 (p. 3-13) is too light to fully inform.
9. A grading plan showing proposed cut and fill must be included in the EIR.
10. What is the maximum depth to be excavated, both in terms of depth below grade and in terms of mean sea level?
11. Do anticipated approvals include a request to establish grade?
12. Do anticipated approvals include agreement from the City of Newport Beach to allow fuel modification on publicly owned open space?

R11-23
(cont'd)

Environmental Setting

1. (p. 4-7) The North Newport Center Development Agreement must be included in the list of approved projects in Table 4-1.
2. (p. 4-7 & 8) Development within the City of Newport Beach not subject to the TPO must be considered in the analysis cumulative impacts not related to traffic, such as habitat and water quality.
3. (p. 4-7 & 8) Development in Irvine, Costa Mesa, and Huntington Beach, must be considered in the analysis cumulative impacts which occur on a regional basis. Most important would be development within the Newport Bay/San Diego Creek watershed.

R11-24

Aesthetics

The discussion of aesthetics appears designed to reach a conclusion of “no impact” despite the replacement of low key structures which blend well with the adjacent ecological reserve and county recreation facility with larger structures, closer to the road, at least one of which appears intended to make a visual statement. Several of the photos emphasize the pavement at the perimeter of the site with a wide-angle perspective (Fig. 5.1-6,7,8) or are taken from points so far away that the site is difficult to even identify. Even so, the simulations show significant changes in many cases, most significantly Simulation 5-A (Fig 5.1-6). Additional view locations, which would be anticipated to be most vulnerable to aesthetic impacts would be from the far side of the Newport Dunes Lagoon at the end of Bayside Drive and from Back Bay Drive north of the site at about the southerly edge of the coastal sage scrub area. A view from Jamboree Road toward the proposed parking structure should also be provided.

R11-25

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In addition the following questions and comments must be addressed:

1. How much of the site is currently in open space?
2. How much of the site will be in open space following redevelopment of the site?
3. How much open space will be lost?
4. What is currently the average and minimum building setback on each side (north, south, east, west) of the property?
5. What is would be the average and minimum building setback on each side (north, south, east, west) of the property upon redevelopment?
6. (p.5.1-31) How can landscaping soften features and massing of thirty-five foot tall structures and minimize their visibility, when the northerly portion of the property will be subject to fuel modification mandating maximum vegetation height of eight to eighteen inches?
7. (p.5.1-32) Of what skyline are views enhanced? No "skyline" is shown in the simulations. Is the "enhanced" skyline view consistent with views expected and sought out in a nature reserve?
8. (p.5.1-31,32,33) What landscaping will be provided to screen structures? A landscape plan must be included in the EIR.
9. (p.5.1-31,32,33) What will the City do to ensure the landscaping is installed and maintained?
10. (p.5.1-31,32,33) If the City does not adopt conditions of approval regarding site landscaping, including minimum box size, it cannot be assured that the asserted screening and softening will occur.
11. (p.5.1-33) Even based on the inadequate simulation locations and perspectives chosen, how can it reasonably be concluded that the appearance of the site will not be substantially altered? Does the preparer honestly expect decision makers and the public to view Simulation 5A (Fig. 5.1-6) and conclude that the appearance of the site is substantially the same?
12. (p.5.1-34) A lighting plan showing lights to be removed and lights to be retained at a readable scale must be provided.
13. (p.5.1-34) What will the City do to ensure that low level lighting with proper cutoffs is installed and maintained?
14. (p.5.1-34) If the City does not adopt conditions of approval regarding allowable lighting, it cannot be assured that no impact will occur.
15. (p. 5.1-37) On what basis is it concluded that lighting from the project and from intensification of uses at Newport Dunes would not combine to create a cumulative impact? Were views from across the bay considered?
16. Absent all of the above information, evidence does not demonstrate that no significant impact will occur to aesthetic factors.

R11-26



Air Quality

Page 9 of 19

2. Response to Comments

- | | |
|--|--------|
| 1. The EIR must address impacts due to fugitive dust during construction which create a nuisance and visual impact at best and health problem for vulnerable individuals at worst. Measures for control of fugitive dust must be included as conditions of approval. | R11-27 |
| 2. (p. 5.2-17, 23) In an era when Washington is legislating what type of light bulb and ordinary homeowner may purchase, how can it be concluded that any construction project, even one moderate in size, would have no impact on either an individual or cumulative basis? | R11-28 |

Biological Resources

This section must address potential predation impacts on the ecological reserve from raptors and corvidae due to loss of forage/prey reduction on the project site and/or in fuel modification areas. Of particular concern are impacts on high interest species such as least terns.	R11-29
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The EIR must address impacts of fuel modification on the disturbed wetland mapped in Figure 5.3-4 (p. 5.3-21) in the light of the following Newport Beach Coastal Land Use Plan policy: 4.2.1-2 Protect, maintain, and where feasible, restore the biological productivity and water quality of coastal waters, streams, wetlands estuaries and lakes.	R11-30
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The EIR must address the impact increased traffic on Back Bay Drive may have on wildlife. This would include direct impacts due to disturbance/flushing as well as impacts from headlights, noise, and water quality. Of particular concern is construction traffic.	R11-31
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The EIR must address the potential for both direct impacts to habitat and indirect impacts due to light, noise, dust and water quality impacts and must address the following: 1. (p. 5.3-10,11) Which, if any of the species listed in Table 5.3-1 would be expected to occur in the open space areas north of the subject property or elsewhere in Upper Newport Bay? 2. (p. 5.3-15,16) Which, if any of the species listed in Table 5.3-2 would be expected to occur in the open space areas north of the subject property or elsewhere in Upper Newport Bay? 3. (p. 5.3-19) What maintenance activities will be required to maintain a vegetation height of no more than eight inches in the Special Treatment Zone? 4. (p. 5.3-19) How often will maintenance occur? 5. (p. 5.3-19) What mechanical equipment, if any, will be used for maintenance in the Special Treatment Zone? 6. (p. 5.3-19) What are the anticipated noise levels of that equipment? 7. (p. 5.3-19) Inasmuch as maintenance would be required by May 1 (p. 5.6-15) and some vegetative species experience considerable growth in the rainy season, would maintenance activities be required in the ESHA buffer area during nesting/breeding season for	R11-32
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2. Response to Comments

- gnatcatchers? With what impact?
8. (p. 5.3-19) How will it be ensured that maintenance does not result in disruption of habitat values?
 9. (p. 5.3-21) Figure 5.3-4 must show the property boundary of the Hyatt Regency Newport Beach site.
 10. (p. 5.3-21) Fig. 5.3-4) Why is there a gap between the edge of the Special Treatment Zone and Zones B and C/D?
 11. (p. 5.3-21) Fig. 5.3-4 indicates that vegetation in Zone B would be a maximum of 18 inches, whereas Page 3-20 indicates that vegetation in Zone B would be a maximum of 8 inches. Which is correct?
 12. (p. 5.3-23) What measures have been provided to mitigate potential impacts due loss of forage (Impact 5.3-4)?
 13. (p. 5.3-23) Is the open space immediately north of the project site part of the NCCP reserve system?
 14. (p. 5.3-23) If the area is not in the NCCP reserve system, are there plans to include it?
 15. (p. 5.3-23) If the area is in the NCCP reserve system, is the proposed ongoing fuel modification program consistent with provision of quality habitat in the reserve system?
 16. (p. 5.3-23) Which of the projects listed in Chapter 4 of the DEIR would contribute to impacts on biological resources? What would be the total acreage of habitat affected, by habitat type? Any tally must include the Newport Village site slated for development of a new city hall.
 17. (p. 5.3-23) In addition to coastal sage scrub, the EIR must address cumulative impacts on other habitat types potentially affected, including wetlands, raptor forage areas, and areas subject to increased predation from raptors, crows, and other predators.
 18. (p. 5.3-24, 25) Inasmuch as mitigation measures to reduce construction impacts on gnatcatcher habitat will only occur if “practicable” and if no unexpected events occur, it cannot be assured that no impacts will actually occur.
 19. (p. 5.3-25) If the open space area north of the project site is not within the NCCP reserve, then mitigation measures which are worded to reference actions to be taken specifically in areas identified in the NCCP/HCP or adjacent to the NCCP/HCP would be of no effect (Measure 3-1). The measures must be reworded to make it clear that the actions discussed will be taken regardless of the NCCP/HCP status of the site and surrounding area.
 20. (p. 5.3-23) Isn't it true that birds, like humans, often do not show signs of distress when initially under stress (Measure 3-2)?
 21. (p. 5.3-23, Measure 3-2) As stated on Page 5.3-1, “take”, as defined under the Federal Endangered Species Act, means to “harass, harm, pursue, hunt, wound, kill, trap, capture, collect, or attempt to engage in such conduct”, wouldn't the appearance of distress be an indication that a take had occurred?
 22. (p. 5.3-23) If one were to wait until excessive noise resulted in visibly distressed gnatcatchers, wouldn't that increase the chances that harm, or “take”, would occur? Wouldn't it be preferable to simply prohibit excessive noise within three hundred feet of an active nest?

R11-32



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2. Response to Comments

23. (p. 5.3-23) The inclusion of measures to limit lighting near habitat areas is reasonable. However, the body of the DEIR does not discuss potential impacts due to night lighting, although this is addressed in Appendix D. In order to ensure that the proposed measures may be imposed as a project requirement, a nexus must be established. It is thus suggested that a discussion of the impacts of lighting on wildlife be included in the main body of the EIR.

R11-32

Cultural Resources

The EIR must address the historic significance of the hotel itself. It is astounding that the EIR concludes, absent discussion, that there are no historic resources in the project area.

The existing hotel, when known as the Newporter Inn, was often visited by dignitaries of national stature. This was particularly true during the Nixon administration. Among those who stayed in the villas at the Newporter Inn were John Ehrlichman, H. R. "Bob" Haldeman, John Mitchell, and other high placed administration officials.

R11-33

Various memoirs describe political strategy sessions held in the Villas. It was while staying in one of the Newporter Inn villas in the wake of Watergate that Martha Mitchell made her famous telephone call to reporter Helen Thomas, a call which was cut off amid sounds of a struggle. All of these events were significant in the broader pattern of the history of our nation which is still haunted by the specter of Watergate and the historic resources represented by the villas must be addressed in the EIR.

Geology and Soils

It is disappointing that this section seems to focus on regional and areawide issues, to the point where pages of the General Plan EIR are presented verbatim, while giving short shrift to project specifics. This section must present and evaluate grading plans for the proposed project. This would identification of areas to be subject to cut and areas subject to fill, as well as depth of cut and fill.

R11-34

This section must address the impact dewatering may have on nearby buildings and infrastructure, both on and off of the project site. It must also address how high groundwater may affect proposed subterranean parking, including any necessary mitigation measures. In addition the section must address the following questions and comments.

R11-35

1. Page 5.5-11 discusses potential for erosion and mentions measures which would mitigate potential impacts, yet these measures are not listed as proposed mitigation measures in Section 5.5-7. The EIR must include specific mitigation measures to control erosion.
2. (p. 5.5-13) Many, if not most, California cities are now using the International Building Code, which is designed to eliminate regional differences within the United States. Why is the City of Newport Beach still using the Uniform Building Code?
3. (p. 5.5-14) If additional study is needed to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions and to provide site-specific recommendations to address these conditions, it cannot be assured that impacts will be mitigated to an insignificant level.
4. (p. 5.5-14) If additional study is needed to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading

R11-36



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constraints, and other soil engineering design conditions and to provide site-specific recommendations to address these conditions, it cannot be assured that no additional impacts will occur. An example would be the need to remove unsatisfactory soil materials and haul them off-site, increasing construction impacts on such factors as traffic, air quality, and noise.

R11-36
(cont'd)

5. The above information regarding expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions must be provided in the EIR.

Hazards and Hazardous Material

This section must address potential impacts due to asbestos and lead paint on the nearby senior complex. Mitigation measures must assure ongoing, continuous monitoring to assure that all appropriate procedures are followed.

R11-37

Hydrology and Water Quality

This section, too, focuses on areawide issues, to the detriment of evaluation of the proposed project. Many pages re-iterate portions of the General Plan EIR verbatim. It would have been preferable to focus on on-site conditions and the actual Newport Bay/San Diego Creek watershed in which the proposed project is located instead of discussing the Santa Ana River in the San Bernardino Mountains.

R11-38

For example, based on information elsewhere in the DEIR (page 5.5-7), it appears that groundwater exists less than ten feet below ground surface, yet this is barely addressed in the DEIR. Instead, a general discussion of shallow groundwater along the coast, verbatim of Page 4.7-7 of the General Plan EIR is presented (p. 5.7-8). The EIR must address shallow groundwater on the project site along with the potential for dewatering, quality of the water, water disposal, quantity requiring disposal, and anticipated time frames over which any dewatering would occur.

The EIR must also indicate total area of impervious surfaces on the existing site and on the proposed site. In addition the following questions and comments must be addressed.

1. (p 5.7-3) As shown in Figure 5.7-1, the immediate watershed includes areas outside the City of Newport Beach. The discussion of cumulative impacts on hydrology and water quality must include these areas.
2. (p 5.7-3) Newport Bay receives water from San Diego Creek. Thus, the illustration of the "Newport Bay watershed" does not include the entire area draining into Newport Bay. The San Diego Creek watershed must also be shown. The discussion of cumulative impacts on hydrology and water quality must include these areas.
3. (p. 5.7-10) What water quality tests have been done on groundwater encountered on the project site?
4. (p. 5.7-10) Is on-site groundwater of acceptable quality for disposal in the storm drain

R11-39

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- system and the Bay?
5. (p. 5.7-11) The DEIR states that the project site is not within any coastal flood hazard area, yet the map of coastal flood hazards (Fig. 5.7-4, p. 5.7-15) is at such a small scale, one cannot really tell where the flood zone ends in relationship to the subject property. This is further obscured by placement of a thick red circle over the flood zone boundary. The DEIR must present larger scale versions of Figures 5.7-3 and 5.7-4 which clearly delineate hazards in relation to the subject property and immediately surrounding area, not maps showing the entire city and beyond, leaving the project site as little more than a dot on a map.
 6. (p. 5.7-17) The discussion of seismically induced inundation must address potential hazards to the project site itself, not just general hazards in the area.
 7. (p. 5.7-21) Isn't it highly likely that de-watering *will* be required?
 8. (p. 5.7-27) How effective, as a percentage of pollutants are each of the listed measures at controlling or removing pollutants? One hundred percent? Fifty percent?
 9. (p. 5.7-27) If the EIR does not identify which measures will be implemented and how effective these measures are at removing pollutants, it cannot be stated that impacts are reduced to an insignificant level.
 10. (p. 5.7-27) Construction BMPs must be included in the mitigation monitoring program.
 11. (p. 5.7-29) What portion of parking and traffic areas, as a percent of all parking and traffic areas would incorporate permeable/semi-permeable materials?
 12. (p. 5.7-29) If the site-design BMPs will be incorporated only where feasible, it cannot be concluded that impacts would be reduced to an insignificant level.
 13. (p. 5.7-29) Site-design BMPs must be included in the mitigation monitoring program.
 14. (p. 5.7-30) Which of the listed source-control measures, if any will be incorporated into the proposed project?
 15. (p. 5.7-30) Source-control BMPs must be included in the mitigation monitoring program.
 16. (p. 5.7-31) The EIR must identify the removal efficiencies of the various measures as a percent of a given pollutant, including specific heavy metals. Without information as to how much of a given pollutant may remain, it cannot be concluded that impacts would be reduced to an insignificant level.
 17. (5.7-35,36) The subareas listed in Table 5.7-6 and 7 are shown only on pages 59 and 60 of Appendix I. The map must be presented in Section 5.7 of the EIR.
 18. (5.7-35,36) An existing grassy golf course will be removed and it appears that unpaved, open space will be reduced. How then, would runoff be projected to decrease? This makes no sense.
 19. (p. 5.7-37) The EIR must identify cumulative development in the watershed, whether or not it is located in the City of Newport Beach.
 20. (p. 5.7-37) Absent information in the DEIR as to which pollution control measures will be included in the project, the specific effectiveness of each measure, and assurances through a mitigation monitoring program that measures will actually be implemented on an ongoing basis, it cannot be concluded that no significant impacts will occur or that no additional mitigation measures would be needed.

R11-39
(cont'd)



2. Response to Comments

Land Use and Planning

Section 15125(d) of the CEQA Guidelines requires that an EIR discuss any inconsistencies between the proposed project and applicable general plans and regional plans. There is no requirement that an EIR identify policies with which a project is consistent or that an EIR balance different policies and programs. An EIR must only identify inconsistencies.

By contrast, the DEIR devotes considerable effort to identifying policies with which the project could be considered consistent, but fails to discuss potential inconsistencies at all. The proposed project includes a modification request. Clearly if the proposed specific plan were consistent with the adopted standards, the modification request would not be necessary. As discussed above, the DEIR does not appear to measure building height from existing, unaltered grade. Further, it appears that the proposed time-share use is not permitted under the city's Local Coastal Program. The DEIR must, at a minimum, discuss these inconsistencies. In addition, while conclusions may be subjective, a finding that the proposed project preserves the visual character of the area or that no habitat values would be disrupted strain credibility.

R11-40

Noise

The EIR must address how expansion of the hotel use could contribute to demand for additional flights and John Wayne/Orange County Airport and lead to increased noise. The EIR must also address noise from on-site mechanical equipment. In addition the following questions and comments must be addressed.

R11-41

1. (p. 5.9-21) Where on the site will noise generating activities occur?
2. (p. 5.9-21) Are no noise generating activities expected to occur on the perimeter of the site? Not even landscape maintenance?
3. (p. 5.9-21) Which sensitive uses are 340 feet away from noise generating uses?
4. (p. 5.9-21) What is the distance to the senior complex across Back Bay Drive?
5. (p. 5.9-23) What is the distance to the Sea Island complex across Jamboree?
6. (p. 5.9-25) Contrary to what is stated in Section 5.9, additional measures are only required is the gnatcatchers exhibit distress, taking a horse-out-of-the-barn approach to closing the door on impacts. Measure 3-2 should be revised to reflect what is stated on Page 5.9-25.
7. (p. 5.9-20,26) The DEIR defines a significant impact to include a noise increase of one or more decibels when CNELs are at 65 to 75 dBA in the vicinity of any sensitive receptors. As shown on Table 5.9-10, a cumulative change of a decibel or more will occur at several locations where CNELs already exceed 70 dBA. The project would make a measurable contribution to increased noise at two of these locations, Jamboree road at the Hyatt Regency entrance and Jamboree Road at Santa Barbara Drive. However, the DEIR then concludes that no significant impact will occur because noise levels will not exceed 75 dBA. This makes no sense and must be reconciled.
8. Where on the project site will laundry, food service supplies, and other deliveries occur?

R11-42

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- How will noise be controlled in those areas?
9. Where on the site will trash be stored and picked up/compacted? How will noise be controlled in those areas?

R11-42
(cont'd)



2. Response to Comments

Public Services

The DEIR must address how emergency response to the Dunes, Shellmaker Island, and the Back Bay bike trail/jogging trail would be affected during construction. Plans must assure adequate emergency response to these areas.

R11-43

Transportation and Traffic

It is a concern that this section is based on traffic counts up to four years old. It is also of concern that no driveway counts or parking utilization counts for the facility itself are presented in the DEIR. A more adequate analysis would be provided through utilization of more current traffic counts and site specific data.

R11-44

1. (p. 5.11-2) Are traffic counts from 2004 and 2005 the most current counts available?
2. (p. 5.11-8) How do the trip generation rates shown compare to actual rates at the Hyatt Regency currently?
3. (p. 5.11-8) Trip generation calculations make no provision for increased ballroom space or other expanded amenities. These must be taken into account. It does not seem likely that the 88 additional time share units will create demand for approximately 8,000 square feet of additional meeting rooms. In addition, a project objective is to meet conference space needs for the City of Newport Beach (p. 3-2), implying that users of ballroom space will be coming from elsewhere in the city. The EIR must examine traffic generation from all uses.
4. (p. 5.11-21) The EIR must examine how any potential parking shortages, including during construction, could affect availability of parking and coastal access at Newport Dunes and Shellmaker Island and along Back Bay Drive.
5. (p. 5.11-21) The EIR must identify any loss of public parking in the surrounding area on either a short term basis due to construction or a long term basis due to added or expanded curb cuts/entry aprons.
6. (p. 5.11-21) How many parking spaces are currently located on the site?
7. (p. 5.11-21) What is the current utilization rate of on-site parking, both during events and during down time for meeting/ballroom space?
8. (p. 5.11-8,22,23) Based on the parking analysis, between 5 and 6 pm, parking demand for time share uses will drop by fourteen vehicles. Parking associated with banquet/meeting facilities will drop by 304 spaces between 5 and 6 pm. Approximately 23 percent of meeting/ballroom space at the expanded facility will be provided by the increase due to the proposed project. Prorating parking on the basis of space, about seventy spaces would be required for the just the increase in space. Added together, that would be a net reduction in parking demand of at least 84 cars. Presumably this net change would not be due exclusively to an exodus from the site, but would reflect some cars entering to replace spaces vacated by vehicles leaving the site during the 5 to 6 pm hour. How, then would the project generate only 58 additional pm peak hour vehicle trips. This makes no sense. Realistic trip generation rates reflecting existing use of on-site facilities must be utilized.

R11-45

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9. The DEIR must address how construction could affect access to Back Bay Drive.

R11-45
(cont'd)

Growth Inducing Impact

Because the DEIR fails to address infrastructure capacity in the area surrounding the project site, it is not known if any new facilities, such as water lines or pump stations, would be needed to serve the site nor if any such new facilities would facilitate additional growth. In addition, the DEIR fails to address demand for employee housing. Thus, it cannot be concluded that the project will not induce additional growth on either an individual or cumulative basis.

R11-46

Project Alternatives

The reduced ballroom and reduced timeshare alternatives were improperly rejected. It is recognized in the DEIR that each would reduce, though not eliminate impacts. Thus, each is environmentally superior to the proposed project.

R11-47

Conclusion

As currently presented, the DEIR is inadequate to fulfill the purposes of CEQA. The DEIR must be revised to provide more complete, accurate information regarding characteristics of the proposed project and project impacts. The EIR must be re-circulated pursuant to Guidelines Section 15088.5 (a)(4) in order that the public and decisions makers may be fully informed of the impacts of the proposed project.

R11-48

Once again, thank you for this opportunity to comment.

Sincerely, ^{for}
Sandra Genis by Larry Porter

Sandra Genis

Larry Porter
LARRY PORTER



2. Response to Comments

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2. Response to Comments

R11. Response to Comments from Sandra Genis, dated April 4, 2008.

R11-1 The commenter's understanding of the proposed project is accurate.

R11-2 As described under Mitigation Measure 6-1, *Vegetation Management*, portions of the proposed fuel modification area along the northern project site boundary are owned by the City of Newport Beach. An agreement with the City to be conveyed with deed for extended fuel modification would be required. Pursuant to this mitigation measure, vegetation management would be required to be completed prior to the start of construction.

The applicant is not requesting an establishment of grade in accordance with Newport Beach Municipal Code Section 20.65.030 B.3. Finished grades are being used for the purpose of measuring height pursuant to Section 20.65.030 B.1, which states that the City may approve a grading plan at the time of subdivision, under which circumstances grade for the purposes of measuring height shall be the finished grade shown on the approved plan. The applicant is requesting the approval of a tentative parcel map and has submitted a detailed grading plan for approval. Should the project be approved, the finished grades illustrated on the approved grading plan, Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4) in Section 3, *Revisions to the Draft EIR*, will be utilized for the purposes of measuring height.

R11-3 The commenter is correct that the EIR could be used as an informational document by other public agencies. Some public agencies that are required to issue permits and approvals, such as the Regional Water Quality Control Board, are considered responsible agencies and could rely on the EIR prior to taking action on the project. The table on page 3-35 of the DEIR acknowledges that permits from the agencies listed in this comment would be required to implement the proposed project.

R11-4 As substantiated in the Initial Study (included as DEIR Appendix A), the proposed project would result in less than significant impacts to population and housing, public utilities, and recreation. Development as proposed for the project is in accordance with the 1993 Circulation and Improvement and Open Space Agreement (CIOSA) for the Hyatt property. This agreement vested an entitlement for expansion of the hotel use. The City's updated General Plan (2006), therefore, also anticipated this development.

The project would not create permanent housing and would not introduce new population to the area. The number of new employees required to support the expansion would be minimal, and are anticipated to be available from existing residences in the surrounding areas. Initial Study pages 53–55 substantiate that impacts to utilities and service systems, including water and wastewater services, which are provided by the City, would be less than significant. The check-mark for question XVI *b*) on page 30 of the Initial Study is a typographical error, and should be marked as "less than significant" as supported on page 53 for this question.

Project implementation would not generate new population that would increase the need for existing neighborhood or regional parks, and potential impacts to existing



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recreational resources would be less than significant, as concluded in the Initial Study.

R11-5 See Response R11-4. Required infrastructure improvements are discussed in DEIR Section 3, *Project Description*, and Initial Study pages 53-55 substantiate that impacts to utilities and service systems would be less than significant.

R11-6 See Response R11-4.

R11-7 As noted above, the proposed project is in accordance with the 1993 CIOSA development agreement. In exchange for development rights (including the expansion of the Hyatt facility), The Irvine Company provided payments for circulation improvements, an interest-free loan, and land for open space and potential senior housing sites in the City. Six park sites have been dedicated under CIOSA, including Back Bay View Park, Newport Center Park, Newporter Knoll, Freeway Reservation, Upper Castaways, and Harbor Cove. The CIOSA agreement has resulted in substantial benefits to open space and recreation in the City. Maintenance of the on-site golf course was not a term of the agreement.

The proposed project would not result in any long-term significant impacts to the recreation experience at Newport Dunes or Upper Bay in general. As concluded in the DEIR (see Section 5.9, *Noise*), however, construction-related noise would be significant at nearby residential and recreational receivers. At 90 feet from the project boundary, estimated noise levels during construction are projected to range from 76 to 83 dBA in comparison to the existing ambient noise level of 59 dBA. This impact would be significant and unavoidable and project approval would require a statement of overriding considerations by decision makers.

Construction traffic for the Hyatt Regency project would not adversely impact Back Bay Drive with respect to the vehicles, bicycles, or pedestrians along this roadway. At the present time, the capacity of Back Bay Drive substantially exceeds the current traffic volumes. There is sufficient roadway width available to maintain existing motor, bicycle, and pedestrian traffic without adversely affecting current operations. The DEIR demonstrated that the intersection of Jamboree Road at Back Bay Drive is currently operating at Level of Service A during the AM/PM peak hours and the estimated maximum current average daily trips (ADT) on Back Bay Drive is only 2,000 trips. This would indicate that the roadway segment of Back Bay Drive is operating at Level of Service A. There is substantial excess capacity available on Back Bay Drive as a collector road to accommodate the additional construction traffic anticipated with the demolition of the existing Hyatt Regency Newport Beach ballroom and construction of the new ballroom and the timeshare units. Total construction traffic is estimated to be only 196 ADT, with only a portion of it going back to Back Bay Drive.

A Construction Management Plan will be prepared prior to any construction activities. This plan will demonstrate how construction traffic would be routed onto and off of the site during all phases of the construction. A preliminary Construction Traffic Routing Plan is shown in Figure 5, in Section 3, *Revisions to the Draft EIR*. The Construction Management Plan will follow the California Manual of Uniform Traffic Control Devices to ensure that existing motor, bicycle, and pedestrian traffic is not

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adversely impacted during construction. Where necessary, the appropriate signage, traffic cones, barricades, and other traffic control devices will be utilized to maintain existing traffic, bicycle, and pedestrian operations along Back Bay Drive. The Construction Management Plan will be reviewed and approved by the City of Newport Beach to ensure that current usage of Back Bay Drive is not adversely affected during any phase of construction. The Construction Management Plan will address in detail each phase of construction for the project.

- R11-8 The project objective to expand the existing use in accordance with the existing CIOSA vested entitlement is logical. The specification of providing a total of 479 units in accordance with this objective did not preclude the consideration of other project alternatives, including an Alternative Development Area, Alternative Land Use, Reduced Ballroom Alternative, Reduced Timeshare Units Alternative, or Reduced Construction Equipment Alternative. DEIR Section 7, *Alternatives to the Proposed Project*, provides the reasoning why each of these alternatives were not analyzed in detail. For example, a reduced timeshare unit alternative would not eliminate the significant construction noise impact of the proposed project, the only impact determined to be significant after mitigation.
- R11-9 As noted by this commenter, the project objectives include, “Develop a new, larger ballroom facility to assist in meeting conference need for the City of Newport Beach.” The potential opportunity for expanded ballroom facilities or conference centers in existing hotels was identified in a revenue enhancement study conducted by PKF Consulting on behalf of the City of Newport Beach and the Newport Beach Conference and Visitors Bureau.⁴ A preliminary study of the potential market demand for a conference or convention center evolved into a revenue enhancement study for Transient Occupancy Tax for the City. The study’s primary findings included, “An example of Public-Private partnerships could be the development of a large ballroom or conference center at one of the existing hotels which would allow the City of Newport Beach to increase its level of rooms demand by appealing to group demand segments not currently able to be accommodated within the community.”
- R11-10 Per this comment, an upgraded cut/fill grading permit is included in this FEIR. Please see Section 3, *Revisions to the Draft EIR*, Figure 10, *Earthwork Cut/Fill Map*. The earthwork quantities have been updated as a result. The cumulative effect of various refinements and revisions to the project since the last earthwork quantity estimate (August 2005) has resulted in an increase in fill, and a reduction in cut. The updated quantities are: 22,500 cubic yards (cy) of cut and 26,500 cy of fill; the net result will be 4,000 cy of import required. The maximum depth to be excavated is 18 feet below existing grade.
- R11-11 Per this comment, a Landscape Plan is provided as Figure 8, Section 3, *Revisions to the Draft EIR*. The proposed 10,072-square-foot spa and fitness facility would be available for use by the hotel guests and to the general public. Please see response R11-12 regarding height limitation information.
- R11-12 Section 20.65.030 B-1 of the City Code states that with an approved grading plan or parcel map, the grade can be measured from “finished grade” to establish the



⁴ PKF Consulting, February 15, 1997.

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height of the building. In compliance of the city code, all buildings are within the 35-foot height limit. This project will be processing for a grading plan and a parcel map. The vertical heights of the buildings are measured to the midpoint of sloped roof plane, and less than five feet from the roof ridge, as indicated in the Section 20.65.030 illustration. City Planning Department accepts the methodology in measuring building height from finished grade.

- R11-13 The theme tower of the ballroom building has been designed as a vertical mass in proportion to the scale of the overall building. The tower reflects the existing theme tower in the existing main lobby of the hotel. The footprint of the proposed tower is 1.6 percent of the overall ballroom building.

The tower design has four open archways at the top. The upper portion of the tower has 45-degree chamfered corners at the sides of the four open archways. The clipped corners visually reduce the massing of the tower.

- R11-14 CEQA does not require that a Notice of Preparation (NOP) be revised and recirculated as a result of changes or modifications to a project that are made between when the NOP was circulated and publication of the Draft EIR. Building heights and the proximity of the project site to adjacent sensitive vegetation communities (coastal sage scrub) were addressed in the NOP and the modifications or additional information that was developed during preparation of the Draft EIR did not require recirculation of the NOP. In addition to the comments on the DEIR, the public will have another opportunity to comment on the project features during the public hearing process.

- R11-15 Mitigation Measure 3-1 requires avoidance of activities in coastal sage scrub during the nesting season; however, the measure also recognizes that there may be occasions that public health and safety require work during the nesting season. Therefore, in the event this work is required, Mitigation Measure 3-2 sets forth that biological monitoring must be implemented in order to minimize impacts to any potential nesting gnatcatchers. The phrase “to the extent practicable” or “to the extent feasible” refers to measures that require total avoidance of work, i.e., no grading of coastal sage scrub. Where total avoidance cannot be achieved due to public health and safety considerations, other mitigation measures set forth the additional measures that must be implemented to address and minimize potential impacts. Note also that the measures that are the subject of this comment are set forth in the approved Natural Community Conservation Planning/Habitat Conservation Plan (NCCP/HCP) as construction-related minimization and mitigation measures. Please refer to Response R11-32 (3-8) with respect to grading restrictions during gnatcatcher nesting season.

- R11-16 The Geotechnical Feasibility Study prepared by Kleinfelder (see DEIR Appendix F), is a design-level study as typically prepared for a DEIR. The study concludes that, from a geotechnical perspective, the project can be developed as planned, provided that the recommendations of the report are incorporated into design and construction. The subsequent engineering-level report would be prepared and approved prior to issuance of a grading permit. Pursuant to the recommendations in the Kleinfelder report, and mitigation measures provided in the DEIR, the subsequent report would include the engineering-level analysis of potential

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expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions.

- R11-17 The statement on page 3-35 that, “It is the intent of this DEIR to enable the City of Newport Beach, other responsible agencies, and interested parties to evaluate the environmental impacts of the proposed project, thereby enabling them to make informed decisions with respect to the requested entitlements” is not intended to imply that the DEIR is all-inclusive of the analysis required for final approval and issuance of permits by the City and all responsible agencies. Additional project materials and engineering-level analysis is typically required for subsequent permits, including grading and building permits.
- R11-18 Mitigation Measure 11-3 clearly specifies that either a self-parking or valet parking plan shall be submitted and approved that demonstrates the provision of the necessary 467 parking spaces. This mitigation measure was recommended by the traffic engineer, who deems the measure feasible, and requires a specific performance standard as recommended by CEQA. See response R11-17. Refer to Figure 11, *Parking Plan*, in Section 3, *Revisions to the Draft EIR*.
- R11-19 The landscape plan is included as Figure 8 in Section 3, *Revisions to the Draft EIR*. Additionally, view simulations have been updated to reflect landscaping conditions upon installation and after five years (please see Figures 12, *View Simulation 2*, and 13, *View Simulation 3* in Section 3).
- R11-20 The components of the Stormwater Pollution Prevention Plan (SWPPP) are detailed in DEIR Table 5.7-3 and pages 5.7-27 and 5.7-28.
- The commenter is incorrect. Regulatory requirements with existing enforcement procedures such as the SWPPP are not required to be included as CEQA mitigation measures and are not required to be included in the project’s mitigation monitoring plan. The DEIR appropriately documents the requirements and process for the SWPPP and associated best management practices for stormwater control.
- R11-21 Two CEQA methodologies allowed for evaluation of potential impacts are described on pages 4-6 and 4-7 of the DEIR. As described in this section, both methods, the “related-project list” and “a summary of projections contained in an adopted general plan or related planning documents designed to evaluate regional or area-wide conditions” have been utilized in the DEIR, as appropriate. Additionally, as noted on page 4-7, the cumulative project list includes the Traffic Phasing Ordinance-identified projects as well as “other reasonable foreseeable, cumulative projects identified by the City.” The topical analysis of cumulative impacts does consider the resource evaluated. For example, the air quality analysis discusses cumulative impacts within the South Coast Air Basin, the biological resource analysis discusses cumulative impacts within the regional context of the NCCP/HCP, and public services such as police services are discussed based on the entire City, which is the service area for the Newport Beach Police Department.
- R11-22 The commenter is correct in noting that the City, as CEQA Lead Agency for the proposed project, has the discretion to apply customized significance thresholds for environmental review. As included in CEQA Guidelines Section 15064.7, public



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agencies are encouraged to develop and publish their own thresholds of significance. Such customized thresholds are to be adopted by ordinance, resolution, or rule, and involve a public review process. Most cities, however, including the City of Newport Beach, have not adopted customized thresholds, and utilize Appendix G in preparing EIRs. This is consistent and in compliance with CEQA.

R11-23 The following responses correspond to the individual numbering in this comment:

1. See Figure 14, *Site Sections*, which is the revised DEIR Figure 3-6. It shows the height of buildings relative to existing topography.
2. The spa and fitness center would be available to the general public.
3. No, the timeshare clubhouse would not be available for use by timeshare members outside their allotted period.
4. The footprint of the proposed tower is approximately 400 square feet (20 feet by 20 feet).
5. The tower would not have a floor and would not be habitable.
6. The tower would be ornamental only. It would not have an observation function.
7. Connection between the parking lots would not be restricted.
8. See Figure 15, *Existing Building Setbacks*, in Section 3, *Revisions to the Draft EIR*.
9. An exhibit showing cut and fill areas for grading is included in this FEIR (see Figure 10, *Earthwork Cut/Fill*, in Section 3, *Revision to the Draft EIR*). Also, refer to Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4), for more information regarding grading.
10. The maximum depth to be excavated is 18 feet below the existing grade and 42 feet above mean sea level.
11. Please see Response R11-2.
12. An agreement between the project applicant and the City of Newport Beach to allow fuel modification within the City-owned open space area would be addressed as a condition of approval (please also see Response R11-2).

R11-24 The following responses correspond to the individual numbering in this comment:

1. The development agreement referenced in this comment was subsequent to the Notice of Preparation for the Hyatt Regency Expansion EIR. Per CEQA, the environmental setting, including the baseline for related projects, should reflect conditions at the time of issuance of the NOP.

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2. Please see Response R11-21.
3. Please see Response R11-21. The hydrology and water quality analysis for the DEIR are not based on the related project list methodology and a review of specific projects within the entire watershed is therefore not required.

R11-25 As noted in the introduction to the Aesthetics section, visual impacts are by nature subjective. The DEIR includes a narrative description and numerous view simulations to fully disclose the potential visual impacts to both the public and decision makers. Based on the significance thresholds, including whether the project would have a significant impact on a scenic vista, or substantially degrade the existing character of the project site or its surroundings, the project was determined to have a less than significant impact. The project would alter the site, and the DEIR does not conclude that the project would have “no impact” as noted by this commenter. Per the request in this comment, additional view simulations, including a closer simulation from Newport Dunes and a parking structure elevation from Jamboree Road, are provided in Section 3, *Revisions to the Draft EIR* (see Figures 4 and 16).

R11-26 The following responses correspond to the individual numbering in this comment:

1. Existing open space at the project site comprises 13.03 acres, or 54.5 percent of the site, in comparison to the proposed project, which would include 9.65 acres, or 40.4 percent of the site.
2. See previous response.
3. 3.38 acres of open space will be lost.
4. As requested above, a clearer exhibit is shown in Figure 15, *Existing Building Setbacks*, Section 3, *Revisions to the Draft EIR*.
5. Figure 9, *Hyatt Site Plan/Grading Plan*, which is the revised DEIR Figure 3-4, and Figure 15, *Existing Building Setbacks*, depict the proposed site plan and placement of buildings. Below is a summary of existing and proposed setbacks.

Existing:

North property line (p/l) –	91'-7" (from existing Lido Building to north p/l)
Northwest p/l –	133'-5" (from existing Lido Building to north-west p/l)
West p/l –	17'-0" (from existing Housekeeping and Engineering Building to west p/l)
Southwest p/l –	63'-4" (from existing ballroom to curved portion of p/l)
South p/l –	370'-11" (from existing main portion of the hotel to south p/l)



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East p/l – 24'-4" (from existing 1-story Plaza Ballroom to east p/l)

Proposed:

North p/l – 5'-5" (from TS-4 to north p/l)

Northwest p/l – 9'-11" (from TS-2 to north-west p/l)

West p/l – 29'-8" (from TS-7 to west p/l)

Southwest p/l – 112'-4" (from new ballroom to curved portion of p/l)

South p/l – 94'-3" (from new ballroom porte cochere to south p/l)

East p/l – 32'-3" (from relocated housekeeping and engineering building to east p/l)

6. Please refer to the DEIR view simulations and new view simulations in Section 3, *Revisions to the Draft EIR*, and accurately reflect the Landscape Plan and fuel modification plans. As noted in this comment, landscaping features would soften the appearance of the buildings. They would not fully obstruct views of the buildings.
7. The defined "skyline" for the visual simulations is the boundary between the buildings and/or vegetation and the sky. For some of the viewpoints, upon development there would be increased views of the open sky in comparison to existing conditions.
8. The landscape plan is provided as Figure 8, Section 3, *Revisions to the Draft EIR*.
9. The following City Standard Conditions of Approval would apply to the project with respect to landscaping. Enforcement of these conditions is through City procedures outside of the CEQA process:
 - All landscape materials and landscaped areas shall be installed and maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
 - Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Department and the General Services Department. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant

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materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.

10. See previous response. The Planning Department and the General Services Department shall be responsible for review and approval of the landscape plan.
11. See response R11-25. The DEIR does not conclude that the appearance of the project site would be substantially the same after development. Based on the evaluation of impacts and significance thresholds, it concludes that aesthetic impacts would be less than significant.
12. The proposed Lighting Plan is included as Figure 3, Section 3, *Revisions to the Draft EIR*.
13. See previous Response O1-8 and R5-5.
14. See previous Response O1-8 and R5-5.
15. Project lighting would not substantially increase lighting levels over existing conditions and would not combine to result in cumulatively significant lighting impacts. Given the stringent City requirements for lighting and the minimal impact of the project, it was not deemed necessary to specifically evaluate potential light impacts across the bay. See also Response O1-8 and R5-5, and the Lighting Plan in Section 3, *Revisions to the Draft EIR*.
16. Please see previous responses to aesthetics comments.

R11-27 Impact 5.2-3 and Impact 5.2-5, respectively, evaluate the regional and localized air quality construction-related project impacts. As described in these sections, construction emissions would not exceed the South Coast Air Quality Management District's (SCAQMD) regional or localized significance thresholds. Thresholds for localized air pollutant modeling are based on the California Ambient Air Quality Standards, which represent the most stringent ambient air quality standards that have been established, to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those sensitive receptors most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise.

To reduce fugitive dust emissions from construction activities, the SCAQMD has adopted Rule 403, Fugitive Dust. Appendix C to the DEIR includes the SCAQMD's Rule 403 requirements to reduce fugitive dust during construction activities. Rule 403 includes fugitive dust control measures such as watering two times daily, covering haul trucks, and reducing speed on unpaved roads. These measures are implemented as part of the existing regulations by the SCAQMD and are therefore not required to be included as conditions of approval.



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- R11-28 The DEIR does not conclude that the project would have “no impact” on either an individual or cumulative basis for air quality impacts, or for climate change impacts. Air quality impacts were conducted in accordance with methodologies and thresholds adopted by the SCAQMD for determining cumulative, regional, and localized significance. With respect to potential project-related impacts on climate change, the DEIR concludes that “the proposed project would contribute to global warming through direct emissions of greenhouse gas emissions (GHG) and indirectly through removal of existing vegetation and replacement of the surface area with paved parking lots, sidewalks, and structures.” Project-related CO₂ emissions were calculated and included in DEIR Table 5.2-8. It was concluded that “in the absence of adopted thresholds, and because the proposed project is not considered a regionally significant project by SCAG and criteria pollutant emissions would not exceed the SCAQMD thresholds, project-related CO₂ and their contribution to global climate change impacts in the State of California are considered less than cumulatively considerable.”
- R11-29 Modifications to the project site, including an increase in building area and removal of native trees, would not measurably affect, through loss of foraging area, native raptors and/or crows or ravens (corvids). Therefore, no measurable impacts to the ecological reserve, particularly to least terns, which nest over two miles from the project site, would occur.
- R11-30 Fuel modification would be implemented in a manner that ensures no impacts to the disturbed wetland. In the DEIR Figure 5.3-4, *Vegetation & Fuel Modification*, shows that no impacts associated with fuel modification would occur in the area of the disturbed wetland. Also see the update of Figure 5.3-4 in this Final EIR, Section 3, *Revisions to the Draft EIR*, Figure 2.
- R11-31 DEIR Tables 5.11-4 and 5.11-5 show future (2012) without and with project weekday peak-hour levels of service or intersections for the AM and PM peak hours. According to the tables, the project would result in a nominal increase in the volume to capacity ratio at the intersection of Back Bay Drive and Jamboree. It would increase from 0.481 to 0.485 for peak AM hours and from 0.601 to 0.611 for peak PM hours, which was determined in both cases to result in no traffic impacts. These negligible increases would have no affect on wildlife for two reasons. First, this would not result in measurable increases of traffic along Back Bay Drive, north of the project site, which is where wildlife would be encountered. Furthermore, most wildlife that would potentially be affected by vehicle collisions (e.g., coyotes or bobcats) are nocturnal, and the project does not generate significant traffic in this area during the nighttime or early morning. Finally, the low speed limits on Back Bay Drive already greatly reduce the potential for wildlife/vehicle collisions, a condition that would not change in the postproject environment.

A construction management plan would be prepared prior to any construction activities. This plan would demonstrate how construction traffic would be routed onto and off of the site during all phases of the construction. A preliminary construction traffic routing plan is shown in Figure 5. The construction management plan would follow the California Manual of Uniform Traffic Control Devices to ensure that motor, bicycle, and pedestrian traffic is not adversely impacted during construction. Where necessary, the appropriate signage, traffic cones, barricades,

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and other traffic control devices would be utilized to maintain existing traffic, bicycle, and pedestrian operations along Back Bay Drive. The construction management plan would be reviewed and approved by the City of Newport Beach to ensure that current usage of Back Bay Drive is not adversely affected during any phase of construction. The construction management plan would address in detail each phase of construction for the project.

R11-32 The following responses regarding potential direct and indirect habitat impacts due to project-related-light, noise, dust, and water quality correspond to the numbering of the individual comments:

1. All of the species listed in Table 5.3-1 occur within the Upper Newport Bay Ecological Reserve or are expected to occur for either breeding or foraging, with the exception of the San Diego fairy shrimp. The remaining species can be divided into three categories: those that occur adjacent to the site (100 feet) for either breeding or foraging; species near the site (300 feet) for either breeding or foraging; and species that are dependent on the aquatic or salt marsh environment and occur a minimum of 400 feet from the site. The California gnatcatcher is the only species that occurs within 100 feet of the site, with at least one pair observed foraging within 30 feet of the proposed fuel modification zone (but not nesting). Mitigation Measure 5.3-7 implements the NCCP/HCP Construction-Related Mitigation and Minimization Measures that have been developed to minimize impacts on the California gnatcatcher and therefore, impacts associated with the construction noise and dust would be reduced to a less than significant level. In particular, construction noise during the breeding season would be mitigated through on-site monitoring to ensure that noise levels are maintained within acceptable limits, with additional measures to be implemented as determined by the project biologist. Potential lighting impacts to the gnatcatcher would also be reduced to less than significant through implementation of a site-specific lighting plan that would be reviewed by the project biologist. These measures would also result in a reduction of potential impacts to species with the potential to occur within 300 feet of the site, including Cooper's hawk, monarch butterfly, northern harrier, and white-tailed kite, none of which exhibit potential for breeding within 300 feet of the site, only foraging. All of the other species, with the exception of the San Diego coast horned lizard on Table 5.3-1, occur in the salt marsh or other aquatic environments and are at a minimum of 400 feet from the site with no potential for impacts by the project. There is no suitable habitat for the coast horned lizard within 300 feet of the site, though it may occur within the Ecological Reserve. There would be no potential indirect impacts on the coast horned lizard from this project.
2. None of the plant species listed in Table 5.3.2 exhibit potential for occurring within 100 feet or 300 feet of the project site and therefore, there is no potential for the project to have indirect impacts due to dust on special-status plants (though with the construction minimization measure that addresses dust, even plants within 100 feet or 300 feet of the project site would not be impacted). Other special-status plant species that occur within the Upper Newport Bay Ecological Reserve (e.g., salt marsh bird's beak or southern tarplant) are



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associated with the salt marsh or salt marsh edges and are well removed from the site with no potential for indirect impacts.

- 3–8 The Special Treatment Zone would be planted with a mix of native grasses and forbs that have been selected to reduce the need for regular maintenance due to the low stature of the vegetation. All of the species would be native grasses and forbs or succulents. Therefore, no mechanical equipment would be needed to conduct maintenance. Furthermore, where vegetation needs to be trimmed, it would be done by hand or with a weed whip. Any work within the Special Treatment Area during the gnatcatcher-nesting season would be performed by hand; weed whips would only be allowed outside of the gnatcatcher-nesting season (February 15–July 31).
9. Figure 5.3-4, *Vegetation & Fuel Modification*, has been revised to include the Hyatt Regency property boundary (please see Figure 2 in Section 3, *Revisions to the Draft EIR*).
10. As shown in the DEIR Figure 5.3-4, *Vegetation & Fuel Modification*, there would be no gap between fuel modification zones. Please refer to Figure 2, the revised Figure 5.3-4 included in the DEIR, Section 3, *Revisions to the Draft EIR*.
11. The text in the referenced sections is consistent. Both the figure and the definitions on page 3-20 specify that “surface fuels shall be maintained at a height not to exceed 18 inches and grasses shall not exceed 8 inches.”
12. As noted under Impact 5.3-4, impacts to potential foraging area would not be considered significant. In the postproject condition, there would actually be an increase in forage as currently much of the Special Treatment Area consists of golf course turf, bare areas, or weedy species. The native plantings to be installed in the Special Treatment Zone would actually increase the foraging potential for a variety of species. The text under Impact 5.3-4 has been modified as follows (please also refer to these changes in Section 3, *Revisions to the Draft EIR*):

Impact 5.3-4: Project development would not adversely ~~could~~ impact migratory birds and raptor foraging habitat. [Threshold B-2]

The Hyatt Regency golf course property currently contains ornamental trees and shrubs that have the potential to support nesting birds. Impacts to such species are prohibited under the Migratory Bird Treaty Act. The property is an open golf course adjacent to open space that supports, at best, moderate-quality foraging habitat for common raptor species. Impacts to potential foraging area would not be considered significant. **In the postproject condition, there would actually be an increase in forage as currently much of the Special Treatment Area consists of golf course turf, bare areas, or weedy species. The native plantings to be installed in the Special Treatment Zone would actually increase the foraging potential for a variety of species.** ~~However, to assure protection of potential foraging habitat, mitigation has been provided at the end of this section.~~

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13. The area immediately north of the project is not in the NCCP/HCP reserve system. This area is designated nonreserve open space.
14. There are no plans to add this area to the NCCP/HCP reserve system.
15. The fuel modification would be limited to the Special Treatment Zone, which would add native habitat to the edge of the nonreserve open space, or would result in the removal of nonnative vegetation from the area. Both activities would be beneficial to the nonreserve open space.
16. CEQA Guidelines Section 15130, *Discussion of Cumulative Impacts*, requires an EIR to discuss cumulative impacts and the incremental impacts of the project in combination with other projects causing related impacts. “Where a lead agency is examining a project with an incremental effect that is not ‘cumulatively considerable,’ a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.” DEIR Section 5.3, *Biological Resources*, substantiates that upon implementation of recommended mitigation, the proposed project would not adversely impact sensitive species or sensitive habitat. Project impacts, therefore, would not combine with other related projects to result in a significant impact. The DEIR describes the basis for concluding that impacts are not cumulatively considerable. In addition to substantiating the project-related impacts would be less than significant, Section 5.3-4, *Cumulative Impacts*, notes that potential impacts to coastal sage scrub and sensitive species associated with this habitat would be addressed in a regional context through the NCCP/HCP program (described in Section 5.3-1, Environmental Setting). As described in DEIR Section 4.5, *Assumptions Regarding Cumulative Impacts*, analysis using a related project list (for example, as used for the cumulative traffic analysis), is one of two methods used for cumulative impact analysis. The biological resources cumulative analysis does not rely on the “project list” methodology, and therefore it is not necessary to tabulate the impacts of individual projects.
17. The project would not impact coastal sage scrub or wetlands. Therefore, there would be no potential cumulative impacts. For raptor foraging and impacts of corvids within the reserve, see Response R11-29.
18. The commenter does not provide an explanation of “unexpected” events. The NCCP/HCP Construction Mitigation and Minimization Measures have been implemented for scores of projects since their adoption over a decade ago. These measures are proven to reduce potential construction impacts to acceptable levels. Also, as noted, a biological monitor would be present during the gnatcatcher-nesting season to further ensure that impacts are minimized.
19. As noted in Responses 13 and 14 above, the area north of the site is not in the NCCP/HCP reserve system. The NCCP/HCP Construction Mitigation and Minimization Measures have been included in the DEIR because these are proven, time-tested measures developed in consultation with the wildlife agencies and approved by them. These measures would be implemented as



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required mitigation measures and would be included in the Mitigation Monitoring Program regardless of the status of the adjacent nonreserve open space.

20. The California gnatcatcher is highly territorial during the nesting season and any activities that encroach into a territory typically elicits scolds and other territorial behavior. Therefore, should gnatcatchers nest within close proximity of the site, it is expected that such behaviors would be exhibited and be indicative of stress. Should this occur, the biological monitor would stop work and consult with US Fish and Wildlife Service as indicated in Mitigation Measure 3-2. Upon consultation, US Fish and Wildlife Service would determine whether an Endangered Species Take Authorization would be required.

21. See Response 20.

22. See Response 20.

23. The nexus for the lighting mitigation is included in the discussion under Impact 5.3-1. One of the listed Coastal Act Policies with which the project would comply is listed as follows:

Policy 4.1.1-13 – shield and direct exterior lighting away from ESHAs to minimize impacts to wildlife.

R11-33 Buildings younger than 50 years (1958) do not meet CEQA criteria as historic resources. Typically buildings older than 45 years (1963) are evaluated since there is often a delay between the environmental process and construction. The hotel was not completed in 1976. The hotel was originally permitted in 1962 and additions were then permitted throughout the years with the last addition permitted in 1988. Therefore, does not meet either guideline. The assessment included in the Initial Study regarding potential historical resource impacts is therefore accurate, and the EIR need not address the historical activities noted by this commenter.

R11-34 The requested earthwork cut/fill exhibit is provided in this FEIR as Figure 10, Section 3, *Revisions to the Draft EIR*.

R11-35 Please refer to Response O1-20.

R11-36 The following responses correspond to the individual numbering in this comment:

1. Please see Response R10-3 regarding the engineering-level geotechnical analysis that would be required prior to issuance of a grading permit. Additionally, refer to the DEIR Section 5.7, *Hydrology and Water Quality*, Impact 5.7-2 discussion regarding the potential for soil erosion and regulatory requirements for a Stormwater Pollution Prevention Plan (SWPPP) for construction-related impacts.
2. The City of Newport Beach currently utilizes the 2007 California Building Code, which is based on the 2006 International Building Code with California amendments.

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Prior to January 2007, the City utilized the 2001 California Building Code, which was based on the 2001 Uniform Building Code with California amendments.

3. Please see Response R10-3.
4. Please see Response R10-3.
5. Please see Response R10-3.

R11-37 Potential impacts related to lead-based paint and asbestos are addressed in DEIR Section 5.6, *Hazards and Hazardous Materials*. Compliance with stringent state and federal regulations as detailed on page 5.6-13 would mitigate potential impacts associated with these materials to less than significant. Please refer to Responses A6-14 and O1-10.

R11-38 The DEIR addresses groundwater/dewatering impacts on pages 5.7-20 and 5.7-27. Based on the boring results presented on page 5.5-7, it is *unlikely* that the project will encounter groundwater during the construction phase. Should dewatering be required, the project must either discharge to the sewer under an agreement with the sewerage agency or comply with the requirements of the De Minimus Permit for short-term groundwater related discharges within the San Diego Creek/Newport Bay Watershed (Order No. R8-2006-0065, amending Order No. R8-2004-0021). The De Minimus Permit requirements and procedures that the applicant must follow specifically address the concerns of the commenter.

R11-39 The following responses correspond to the numbering in the comment:

1. Cumulative impacts are addressed on page 5.7-37 of the DEIR. The discussion includes the Newport Bay Watershed.
2. Exhibits from the Newport Bay Watershed Action Plan have been attached as Figures 18, 19, and 20, which show the watershed in its entirety, including the San Diego Creek sub-watershed. The project is not anticipated to have any cumulative impacts to the upper portions of the Newport Bay Watershed because 1) the 152 square-mile watershed is primarily urbanized (two-thirds, with half the remaining land undevelopable or preserved open space);⁵ 2) the majority of the watershed is upstream of the project site; and 3) the changes in existing versus proposed runoff conditions of the project site are less than significant when compared to the total amount of runoff entering the upper Newport Bay.
3. Groundwater tests have not been performed for the project and are not typically performed prior to the initial stages of construction. Groundwater quality tests are required for compliance with the De Minimus Permit and any groundwater dewatering procedures would require water quality testing as part of the permit.
4. See Response 2 above.

⁵ 2003 DAMP Appendix D Newport Bay Watershed Action Plan.



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5. An exhibit of Flood Insurance Rate Map (FIRM) Panel 0382H, showing the local area of the project, is included as Figure 20, *Flood Insurance Rate Map*, Section 3, *Revision to the Draft EIR* to supplement DEIR Figure 5.7-3. The subject property is located within Zone X, which is an area with 0.2 percent chance of 100-year flood event.
6. The potential for the project site to be inundated by failure of a levee or dam is addressed in the Initial Study, Section 3.8i) (see DEIR Appendix A, page 45).
7. Please see Response R11-38.
8. The common misconceptions associated with BMP removal efficiencies and the limitations this terminology has when dealing with stormwater runoff and water quality are recognized. The following text is excerpted from the U.S. Environmental Protection Agency's Storm Water Best Management Practice Design Guide (EPA/600/R-04/121, September 2004): "The quantification of efficiency of BMPs has often centered on examinations and comparisons of 'percent removal' defined in a variety of ways. BMPs do not typically function with a uniform percent removal across a wide range of influent water quality concentrations. For example, a BMP that demonstrates a large percent removal under heavily polluted influent conditions may demonstrate poor percent removal where low influent concentrations exist. The decreased efficiency of BMPs receiving influent with low pollutant concentrations has been demonstrated. It has been demonstrated that there is a minimum effluent concentration achievable through implementation of BMPs for many constituents (Schueler, 1996 and Minton, 1998). Percent removal alone, even where the results are statistically significant, often does not provide a useful assessment of BMP performance." Since the calculation of percent removal is a function of the influent quality, a higher percent removal may be reported for influents with high concentrations than with low concentrations, regardless of whether the effluent concentration is still considered high. Similarly, a BMP with a high removal effectiveness may still discharge runoff with concentrations that exceed water quality objectives. The proposed project used the BMP Table within the Orange County Drainage Area Management Plan as the preferred method for selecting BMPs based on their expected performance over numerous studies.
9. Construction BMPs such as erosion and sediment control measures are selected based on the final rough and precise grading plans for the project. As part of the permit application, an erosion and sediment control plan is required along with the rough and precise grading plans in order to obtain a grading permit. This plan lays out the primary erosion and sediment control features in fine detail to reduce the potential for sediments and non-visible pollutants from discharging from the site. The City of Newport Beach is required to review and approve this plan prior to issuance of the grading permit. The implementation of the BMPs is temporal in nature based on the active and inactive areas of each phase of construction. Considering how construction sites change very quickly (daily, weekly, etc.), the modifications to the erosion and sediment control plan are documented in the on-site SWPPP plan that is required by the Statewide General Construction NPDES Permit. In addition, compliance with local grading

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ordinances and the General Construction Permit require implementation of construction BMPs to the Best Available Technology economically achievable (BAT) and best conventional pollutant control technology (BCT) standard for reducing pollutants from construction site storm water runoff. Table 5.7-3 is provided to show CASQA approved construction BMPs available to meet the BAT/BCT regulatory standard.

10. Regulatory requirements are not CEQA mitigation measures and need not be included in the CEQA Mitigation Monitoring Program. Compliance with the General Construction Permit requires the development of a SWPPP. Part of the SWPPP requirements includes the development and implementation of a monitoring program (Section B of the General Construction Permit), where construction BMPs will be monitored and inspected.
11. The areas proposed for permeable pavement is illustrated in Appendix I of the EIR (figure 4 of the Hyatt Regency Newport Beach Water Quality Report). As long as the percentage of permeable pavement in relation to the sub-drainage area is 0.2 or greater, then the area could be considered self-treating.
12. Per the Countywide Model WQMP requirements as reviewed and approved by the Santa Ana Regional Water Board, site design BMPs are to be “considered and incorporated where applicable and feasible, during the site planning and approval process...” The project will therefore, meet the intent of the Model WQMP requirements.
13. The proposed project will be required to develop and implement a project-specific WQMP per City requirements. Part of the WQMP includes an operation and maintenance plan, where BMPs including site design, source control, and treatment control BMPs are to be periodically inspected and maintained to ensure proper function and performance, in perpetuity. These features do not fall within the mitigation monitoring program associated with the EIR.
14. The specific source control measures will be selected concurrently with the final design of the project and these measures will be reviewed and approved by the City of Newport Beach as documented in the Preliminary and Final WQMP associated with the final construction documents. Based on the level of detail of design at this time, not all source control measures can be prescribed at this time. For example, should trash disposal areas be located indoors, there would not be a need for a trash enclosure source control BMP. Per the Countywide Model WQMP requirements, “Source Control BMPs (routine non-structural BMPs, routine structural BMPs and BMPs for individual categories/project features) are required within all new development and significant redevelopment projects regardless of their priority, including those identified in an applicable regional or watershed program, unless they do not apply due to the project characteristics.” In other words, all applicable source control BMPs will be prescribed for the project unless the project feature the BMP is intended to mitigate is not present.
15. See Response to No. 13.



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16. See response to comment 8. Instead, the Countywide Model WQMP requires that the project implement treatment control BMP(s) that remove anticipated pollutants of concern at a high to medium removal efficiency. This is presented in Table 5.7-5 in the DEIR. This table is consistent with the Countywide Model WQMP and was derived from numerous studies reviewed by the county on treatment BMP performance. Identification of specific removal efficiencies of each given pollutant for stormwater runoff is not recommended as noted in Response to Comment
17. The Pre-Construction Hydrology and Post-Construction Hydrology exhibits from the hydrology study in DEIR Appendix I have been reproduced as Figures 22 and 23 in this FEIR, Section 3, *Revisions to the Draft EIR*.
18. The preconstruction and postconstruction flow quantities are computed based on commercial zoning for the entire site. The effect of this methodology is that the stormwater runoff tends to be nearly equal in pre- and postdevelopment conditions. While this approach is an accepted method, in this case it may be more realistic to consider the tributary subareas containing the existing golf course as undeveloped property. By doing so, the preconstruction runoff from Subarea "E" would be reduced by 3.13cfs to 8.49cfs, and Subarea "G" would be reduced by 3.97cfs to 10.65cfs.

The revised Preconstruction Flow Table 5.7-6 is shown below. The postconstruction flow is unchanged.

Table 6
Table 5.7-6 from the DEIR

Table 5.7-6	
Preconstruction Flow	
Drainage Pattern	Preconstruction Flow (cfs)
Jamboree Rd/West Parking Lot Watershed	
Subarea A	18.56
Subarea I	10.02
Subarea J	1.43
Subarea K	6.43
Flow From Jamboree Rd.	96.90
Total	133.34
Back Bay Drive Watershed	
Subarea B	5.81
Subarea C	8.07
Subarea D	37
Subarea E	8.49
Subarea F	3.22
Total	28.66
East Watershed	
Subarea G	10.65
Subarea H	4.93
Total	15.58

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Therefore, the maximum increase, post construction, in any given subarea is 3.97 cfs. The total increase is 7.1 cfs.

19. The redevelopment of the proposed project site is in a location of the City that is considered mostly built-out. Future redevelopment of adjacent properties that are currently developed would not cumulatively increase the amount of impervious surface area and runoff draining to the Newport Bay to any significant degree. Cumulative downstream impacts from project implementation are therefore considered to be less than significant.
20. With respect to mitigation monitoring, see Response to Comment 13.

In accordance with the municipal separate storm sewer system (MS4) Permit and OC DAMP, all priority projects must implement site design, structural and nonstructural source control, and treatment control BMPs to address the pollutants of concern from the proposed project, postconstruction. Selection of specific BMPs is also based on the proposed drainage conditions and other constraints of the project site. Since some of the pertinent details of the project that are required for exact BMP selection are not known during the CEQA phase, it is difficult to determine exactly which BMPs will be implemented and how they will be implemented on the project site. Hence, the technical study presented in Appendix I specifies various treatment BMP options that would satisfy pollutant removal requirements set forth in the MS4 Permit and Countywide Model WQMP. For example, consider the fact that permeable pavement relies upon infiltration into soil as its main treatment mechanism. However, infiltration BMPs are not allowed if groundwater is less than 10 feet below the treatment BMP. This constraint, though, does not exclude the use of infiltration type treatment BMPs until it is proven that the 10 feet of clearance cannot be met at the particular location where the BMP is proposed.

Similarly for the construction phase of the project, construction BMPs cannot be determined until grading plans are produced to determine specific drainage patterns, areas of concern for high erosion (i.e. slopes stabilization), phasing/scheduling, and seasonal conditions, all of which contribute to the effective selection of construction BMPs. Specific Construction BMPs are documented in a SWPPP as required by the General Construction Permit, which is also prepared during the preparation of grading/construction plans for the Project. The SWPPP must be in place at the beginning of construction activities, and must be updated as the various phases of construction progress (e.g. excavation, mass grading, precise grading, paving, building construction, etc.). The SWPPP must be made available for review by the Regional Water Quality Control Board (RWQCB) and City upon request. Section A of the General Construction Permit provides the guidelines for SWPPP preparation and implementation.

Though specific construction and post-construction BMPs cannot be specified with confidence at this stage of the project's development, compliance with the water quality regulations that require them, such as the General Construction



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Permit and the OC DAMP requiring the preparation of a SWPPP and project-specific Water Quality Management Plan (WQMP), may be considered as mitigation measures. Compliance with the SWPPP and project-specific WQMP are designed to ensure less than significant impacts on water quality.

R11-40 Without evaluating the individual policies, the DEIR could not demonstrate whether the project was consistent or inconsistent with applicable policies. It is appropriate to review applicable policies for consistency or inconsistency. Please refer to responses to the DEIR comment letter from the Coastal Commission (Letter A2) with respect to timeshare consistency with the Local Coastal Program. Please refer to previous responses to this letter regarding building height measurement.

R11-41 The proposed project is a relatively small expansion of an existing hotel and would not directly result in an increase in flights at the John Wayne Airport. A potential increase in flights indirectly due to the project would be nominal, speculative, and beyond the scope of a project-specific EIR.

Noise from on-site mechanical equipment from operation of the project was addressed under Impact 5.9-2 on page 5.9-21. Stationary noise from the project site includes mechanical sources of stationary noise. These noise sources are regulated under the City of Newport Beach Municipal Code, Section 10.26.025. Pursuant to the City's Municipal Code, noise generated at the Hyatt Regency property is prohibited from generating noise levels at residential properties that exceed 55 dBA L₂₅ during the day and 50 dBA L₂₅ during the night.

R11-42 The numbered questions included in this comment are addressed by number below:

1. As stated on page 5.9-21, existing noise-generating activities occur throughout the Hyatt Regency. Future uses would not substantially change the character or magnitude of noise generated onsite and stationary sources of noise are regulated under the City's Municipal Code to ensure no noise nuisance would occur.
2. As stated on page 5.9-21, noise sources associated with the Hyatt Regency project includes noise associated with landscaping, maintenance, recreation, deliveries, parking, and events. Landscaping activities currently occur on the perimeter of the site and would continue to occur with implementation of the project.
3. As stated in DEIR Chapter 5.9, *Noise*, noise-sensitive areas surrounding the project site include residential, recreational, and open spaces areas, which include the Newport North Environmental Study Area, Palisades Tennis Club, Bayview Landing community, Newport Dunes, Villa Point community, Sea Island community, and Harbor Cove. The residential communities surrounding the project site are located over 340 feet from the new ballroom and timeshare units.
4. The property line of the Bayview Landing senior community is approximately 90 feet from the property line of the Hyatt Regency, but over 340 feet from the new ballroom and timeshare units.

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5. The property line of Sea Island residential community is approximately 125 feet from the property line of the Hyatt Regency, but over 340 feet from the new ballroom and timeshare units.
6. By means of this FEIR, Mitigation Measure 3-2 is revised as follows. This revision is also included in Section 3, Section 3, *Revisions to the Draft EIR*, in this FEIR.

3-2 If construction occurs during the CAGN breeding season (February 15 to July 15), a biological monitor shall conduct weekly surveys of the coastal sage scrub within 300 feet of grading activities. If CAGN nest are located within 300 feet, noise monitoring shall be implemented and where construction noise exceeds 60 decibels ~~and the birds appear to be distressed~~, noise mitigation shall be implemented and may include (but is not limited to) construction of noise barriers, change in grading arrays, or other means determined appropriate by the project biologist.

7. Cumulative noise impacts may occur if there are substantial noise increases from existing conditions due to noise sources from cumulative development and the proposed project. In general, substantial noise increases are defined as perceptible changes in the ambient noise environment, which occurs when there is a 3 dBA or more increase. However, the City of Newport Beach General Plan acknowledges that even smaller increases over time contribute to the noise environment, and therefore has established a more sensitive threshold for determining project impacts when the existing ambient noise environment is already excessive, as defined by the General Plan. Where project impacts are identified, the project would also cumulatively contribute to traffic noise increase. However, if no project impacts are identified, then project-related traffic would not be substantial enough to cumulatively contribute to cumulative noise increases.

In order for the project's contribution to be cumulatively considerable in a noise environment that ranges from 65 to 75 dBA CNEL, the project would have to contribute a minimum of 1 dBA or more to the ambient noise environment (see Table 5.9-5). In general, a 1 dB increase is not perceptible, except in a laboratory setting. As shown in Table 5.9-10, the project would only increase ambient noise levels by a fraction of a decibel (0.1 dB). Because project-related traffic would result in a maximum increase of 0.1 dB on roadways in the vicinity of the project site that experience noise levels less than 75 dBA CNEL, the project's cumulative contribution to traffic noise levels in the vicinity of the project is also less than significant.

8. Existing services and facilities at the Hyatt Regency at Newport Beach include laundry, food service supplies, and deliveries. These services/facilities would occur in the same locations as they do currently, except the laundry services, which would be moved to the new housekeeping building by the existing ballroom, as shown in Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4), Section 3 *Revisions to the Draft EIR*. Noise from existing and future stationary sources is regulated under the City of Newport Beach Municipal Code.



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9. Trash receptacles at the Hyatt Regency would remain in the same locations as under existing conditions. However, there is a new trash enclosure area shown on the site plans to the northeast of the clubhouse near the tennis facility. Refer to Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4), in Section 3 *Revisions to the Draft EIR*. Noise from existing and future stationary sources is regulated under the City of Newport Beach Municipal Code.

R11-43 There would be no blockage of Back Bay Drive or access to Newport Dunes, Shellmaker Island, or the Back Bay. Please also see Response R11-7.

R11-44 Please see the detailed responses to these issues below (Response R11-45)

R11-45 The responses to this comment are organized per the numbering in the original comment:

1. The traffic study was initiated in 2006 with the Notice of Preparation for the project. Year 2004 and 2005 traffic counts were the most up-to-date available at the time of initiation for the traffic study. Year 2004 and 2005 traffic counts were provided by the City of Newport Beach for the following intersections:

- Coast Hwy and Dover Drive
- Coast Hwy and Bayside Drive
- Coast Highway and Jamboree Road
- Coast Hwy and Newport Center
- Coast Hwy and Avocado Avenue
- Coast Hwy and MacArthur Boulevard
- Jamboree Road and San Joaquin Hills Rd
- Jamboree Road and Santa Barbara

The traffic counts at these intersections were then escalated using an annual growth factor of 1 percent per year to estimate Year 2006 conditions, consistent with the City of Newport Beach Traffic Study Guidelines. New traffic counts were conducted in 2006 for the following two study intersections:

- Jamboree Road and Back Bay Drive
- Jamboree Road and Hyatt Entrance/Island Lagoon

No growth factors were applied to these intersections as they were current Year 2006 traffic counts.

In response to the comment above, the Years 2004 and 2005 traffic counts with the 1 percent annual growth factor used in the Hyatt Newport traffic study were compared to the most recent existing traffic counts conducted by the City of Newport for the eight study intersections identified above. These recent traffic counts were conducted in the years 2006 and 2007.

The tables below summarize the level of service for each of the eight intersections as reported in the Hyatt Newport traffic study and using the more recent traffic counts. As shown in the table, the Hyatt Newport traffic counts provide a comparable or more conservative estimate of existing traffic conditions

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at a majority of the study intersections. In all cases, the eight study intersections continue to operate at an acceptable level of service in the existing condition.

**Table 7
AM Peak Hour Level of Service Comparison**

No.	Intersection	Hyatt Newport Traffic Study		Year 2006/2007 Traffic Counts		Change in V/C
		V/C	LOS	V/C	LOS	
1	Coast Highway and Dover Drive	0.736	C	0.674	B	-0.062
2	Coast Highway and Bayside Drive	0.775	C	0.473	A	-0.302
3	Coast Highway and Jamboree Road	0.740	C	0.655	B	-0.085
4	Coast Highway and Newport Center Drive	0.371	A	0.351	A	-0.02
5	Coast Highway and Avocado Avenue	0.459	A	0.473	A	+0.014
6	Coast Highway and MacArthur Boulevard	0.570	A	0.705	C	+0.135
7	Jamboree Road and San Joaquin Hills Road	0.763	C	0.536	A	-0.227
8	Jamboree Road and Santa Barbara Road	0.564	A	0.527	A	-0.037

**Table 8
PM Peak Hour Level of Service Comparison**

No.	Intersection	Hyatt Newport Traffic Study		Year 2006/2007 Traffic Counts		Change in V/C
		V/C	LOS	V/C	LOS	
1	Coast Highway and Dover Drive	0.779	C	0.742	C	-0.037
2	Coast Highway and Bayside Drive	0.650	B	0.642	B	-0.008
3	Coast Highway and Jamboree Road	0.771	C	0.690	B	-0.081
4	Coast Highway and Newport Center Drive	0.506	A	0.532	A	+0.026
5	Coast Highway and Avocado Avenue	0.544	A	0.586	A	+0.042
6	Coast Highway and MacArthur Boulevard	0.756	C	0.640	B	-0.116
7	Jamboree Road and San Joaquin Hills Road	0.828	D	0.560	A	-0.268
8	Jamboree Road and Santa Barbara Road	0.659	B	0.807	D	+0.148



2. In the existing condition, the Hyatt Regency Hotel provides 403 rooms. The intersection of Jamboree Road and Hyatt Regency Newport Entrance/Island Lagoon serves as the only current access point for hotel employees and guests. This condition allows for a review of the traffic counts conducted at this intersection to determine the existing trip generation rate for the hotel during the AM and PM peak hours. The table below summarizes the actual number of vehicles entering and exiting the site for the existing 403-room hotel and compares the actual counts to the City of Newport Beach trip generation rates

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for a 403-room hotel. The comparison shows that the existing traffic generated by the hotel on a per-room basis is lower than the City-established rate for analysis of new hotel rooms. The use of the City of Newport Beach trip generation rates for the new hotel rooms results in a conservative estimate of new trips generated by the proposed expansion.

Table 9
Comparison of Existing Hyatt Newport Hotel Traffic Counts and Anticipated Trip Generation Rate

Source	Land Use	Unit	Qty	Time Period	Enter		Exit		Total Rate	
					Rate	Trips	Rate	Trips	Rate	Trips
Actual Traffic Counts	Rooms	Room	403	AM Peak Hour		61		28		89
				PM Peak Hour		90		61		151
Newport Beach Trip Generation Rate	Rooms	Room	403	AM Peak Hour	0.40	161	0.27	109	0.67	270
				PM Peak Hour	0.41	165	0.35	141	0.76	306

3. The City of Newport Beach NBTAM trip generation rates for hotel rooms are established to include ancillary hotel facilities (ballrooms, restaurants, and spa). The traffic analysis includes actual trip generation data for a similar hotel in the city (Newport Marriott), which illustrates that the NBTAM hotel trip generation rates are reasonable and that the trip generated by ancillary uses such as ballrooms and spas are reflect in the per room trip rates.
4. The EIR includes an analysis of anticipated peak parking demand for the project upon completion. The analysis shows that sufficient parking is provided as part of the proposed project. As part of the Conditions of Approval for the proposed project, the City of Newport Beach will require the project applicant to submit to the City for approval a Parking Management Plan (PMP), which will specify the number and location of parking stalls that would be provided for hotel guests, employees, and construction employees during the construction of the proposed hotel improvements. The PMP will be required to demonstrate that sufficient parking will be available on-site for all users during construction.
5. Construction of the proposed Hyatt Regency expansion would result in some temporary loss of existing off-street parking for hotel visitors. The project applicant submitted a Conceptual Construction Management Plan, (February 28, 2007) outlining the number of parking spaces that would be available for use by hotel guests and visitors during construction. It is estimated that a minimum of 406 parking spaces would be available during both the timeshare/spa construction phase and the new ballroom construction phase. Refer to p. 5.11-26 in the DEIR.

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6. 785 spaces are currently provided on-site.
 7. The Newport Hyatt Regency does not monitor parking utilization. General parking utilization information, however, was obtained from ACE Parking, which provides the parking service for the resort the Newport Hyatt Regency. The facility provides 200 valet stalls and 455 self-parking stalls. Based on numbers from Ace for the month of August 2008, the valet parking was 38 percent utilized and the self-parking was approximately 33 percent utilized. August represents one of the busier months for the facility with jazz concerts and guests vacationing in the summer. Specific event parking information is not available.
 - .8. The PM peak-hour trip generation rates used in the traffic analysis are consistent with City of Newport Beach standards for hotel land uses within the city. The trip generation rates are also tailored to correspond to the peak hour of traffic volume on adjacent streets, which may not correspond to the peak hour of trip generation for the site. This is a standard approach for traffic analysis studies, as analyzing project trip generation during the peak hour for traffic on adjacent streets typically results in a conservative analysis of traffic conditions.
 9. No access restrictions to Back Bay Drive are currently proposed during the construction of the project. Any street closures or access restrictions requested by the project applicant during construction would require review and approval by the City of Newport Beach.
- R11-46 Required infrastructure improvements are described in DEIR Section 3, *Project Description*. It is anticipated that the number of employees required for the hotel expansion would be supported by the surrounding population, and no need for employee housing would be created.
- R11-47 Neither the Reduced Ballroom Alternative or the Reduced Timeshare Units Alternative would eliminate the unavoidable significant construction-related noise impact of the project as proposed. The DEIR does acknowledge that these alternatives would, however, slightly reduce the noise impact. These alternatives are appropriately rejected from detailed analysis.
- R11-48 The DEIR is adequate the does not meet the stated requirements of CEQA Guidelines Section 15088.5, which would require recirculation.



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3. *Revisions to the Draft EIR*

3.1 INTRODUCTION

This section contains revisions to the DEIR based upon 1) additional or revised information required to prepare a response to a specific comment; 2) applicable updated information that was not available at the time of DEIR publication; and/or 3) typographical errors. This section also includes additional clarification to mitigation requirements included in the DEIR to fully respond to commenter concerns. Changes made to the DEIR are identified here in ~~strikeout text~~ to indicate deletions and in **Bold** to signify additions.

3.2 DEIR UPDATES AND CLARIFICATION

Revisions to the DEIR Section 3, Project Description

Subsequent to the Draft EIR, the City of Newport Beach acquired property from The Irvine Company. Figure 3-4, *Site Plan*, on page 3-11 of the Draft EIR has been modified to show that the property directly north of the project is currently owned by the City of Newport Beach. Please see revised Figure 9, Section 3.4.

In the Draft EIR, the site plan (Figure 3-4) shows that Building No. TS-1 is 85 feet from the wetland, which is northwest of the project site. The distance between the proposed timeshare building and the wetland is also shown in Figure 5.3-4, *Vegetation and Fuel Modification*, in the DEIR. Subsequent to the November 6, 2008, public hearing and follow-up assessment of the location of wetlands adjacent to the project site, the project applicant has worked with the City to increase the buffer area around the wetland and to assure compliance with CLUP Policy 4.2.2-3. Policy 4.2.2-3 of the City's CLUP states the following:

Require buffer areas around wetlands to be of sufficient size to ensure the biological integrity and preservation of the wetland that they are designed to protect. Wetlands shall have a minimum buffer width of 100 feet wherever possible. Smaller buffer widths may be allowed only where it can be demonstrated that 1) a 100 foot buffer is not possible due to site constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource, and of the type and intensity of disturbance.

To assure compliance with CLUP Policy 4.2.2-3, the site plan has been modified to provide a minimum of a 100-foot buffer between the proposed timeshare buildings and the wetland. Building TS-1 has been moved 15 feet to the southwest, providing a distance of 100 feet between the proposed time share building and the wetland. The updated site plan is shown in Figure 9, *Hyatt Site Plan/Grading Plan* (revised DEIR Figure 3-4). The distance of 100 feet between the proposed time share building and the wetland is also shown in Figure 2, *Vegetation and Fuel Modification* (revised DEIR Figure 5.3-4).

The changes to the site plan would increase the buffer between the proposed timeshare buildings and the coastal sage scrub habitat and would reduce potential environmental impacts in comparison to the proposed project as detailed in the DEIR. The modification to the site plan would only change the



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location of one building, Building No. TS-1, as all other buildings would remain the same as analyzed in the DEIR.

Relocation of building TS-1 would also result in a slight increase in required earthwork. An additional 660 cubic yards (a little over 1 percent increase) would be required. According to the project's civil engineer, Fuscoe Engineering, this is within the margin of error for earthwork calculations and is considered a negligible amount. The revised grading plan is shown on Figure 9, *Hyatt Site Plan/Grading Plan* (Revised DEIR Figure 3-4). The construction schedule and activities would not change and related construction impacts would not be affected. The movement of the building would also not interfere with the ingress and egress for the construction traffic flow and would not block any existing or future emergency exits. Refer to Figure 5, *Construction Traffic Access*.

The height of Building No. TS-1 will remain the same as previously analyzed in the DEIR and would still comply with Chapter 20.65, *Height Limits*, of the Newport Beach Zoning Code. Therefore, the slight relocation of Building No. TS-1 would not perceptually change the visual simulations shown in Figures 5.1-2 through 5.1-11, *Visual Simulation 1* through 9, in the DEIR, and the visual simulations shown in Figures 12 and 13, *Visual Simulation 2* and *Visual Simulation 3*, in the FEIR.

Revisions to DEIR Section 5.7, Transportation and Traffic

The Draft EIR correctly states that the existing net ballroom and meeting space totals 25,740 square feet, and that, upon project implementation, the net ballroom and meeting space will total 33,582 square feet (page 3-9 of the DEIR). The parking evaluation in the Hyatt Newport Traffic Impact Analysis for the EIR however, incorrectly assumed that the existing net ballroom and meeting space totals 22,590 square feet, and that, upon project implementation, the net ballroom and meeting space will total 30,432 square feet (page 33 of the Technical Appendix.). This results in approximately 3,150 square feet of meeting space not included in the calculations. The ballroom and meeting space square footage which was used to calculate the on-site parking demand forecast for the Hyatt Expansion project was not correct.

The parking analysis was subsequently updated to reflect the accurate net square footage of the ballroom and meeting space. The Traffic Analysis was updated to include the revised parking analysis and is included as Appendix G of this Final EIR (Hyatt Newport Traffic Impact Analysis, September 22, 2008).

To reflect the updated analysis, the Off-Street Parking section of the DEIR (pages 5.11-21 through 5.11-23) have been revised as follows:

Off-Street Parking

A parking analysis was prepared for the proposed project. The findings and conclusions of the parking analysis were included in the traffic impact analysis prepared by IBI Group (see **Final EIR** Appendix G), and are provided in this section. Table 5.11-6 summarizes the land uses, minimum parking requirements, and provided parking identified in the parking analysis.

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**Table 5.11-6
Hyatt Regency Off-Street Parking Summary**

<i>Use</i>	<i>Zoning Code Parking Requirement</i>	<i>Units</i>	<i>Parking Spaces Required by City Code</i>	<i>Parking Spaces Provided</i>
Hotel (includes guest rooms and banquet facilities)	1 space per 2 rooms	391 rooms	196	785
Timeshare Units	1.2 spaces per room	88 units	106	127
Timeshare Clubhouse/Meeting Facilities	1 space per 50 sq. ft.	1,702 sq. ft. ¹	34	
Overall Site Total			336	912

Sources: City of Newport Beach Zoning Code, Chapters 20.66 and 20.84.

¹ The 1,702 square feet only included the square footage of the assembly area, consistent with the City of Newport Beach parking requirements.

As shown in Table 5.11-6, the proposed project would provide a total of 912 parking spaces for the hotel facilities and timeshare units. The Hyatt Regency hotel rooms and ballroom/banquet facilities would be served by 785 parking spaces, consisting of 345 standard parking spaces and 440 tandem/valet spaces. The parking analysis notes that several hotels in the City of Newport Beach and other cities operate exclusively with valet parking, and allocating a majority of the provided hotel parking to valet service is not uncommon in the hotel industry. The parking analysis also acknowledges the recent approval of exclusively valet parking at the Island Hotel in Newport Beach (formerly Four Seasons hotel). The timeshare units and clubhouse would be served by 127 standard parking spaces that would be reserved for use by timeshare unit guests only.

The parking analysis and the project's site plan call for one parking space per five occupants for the proposed hotel banquet facilities. This assumption is aggressive in that it assumes a higher than average vehicle occupancy rate. The average vehicle occupancy rate in Southern California is 1.2 occupants per vehicle. While it is reasonable to assume that some conference/banquet attendees would be guests at the hotel, some events in the ballroom facilities would attract significant numbers of visitors who are not staying at the hotel. It is likely that the average vehicle occupancy rate for the ballroom/banquet facilities would fall between the standard 1.2 occupant figure and the 5 occupants per vehicle figure cited in the applicant's parking study.

Chapter 20.66 of the Newport Beach Zoning Code identifies minimum parking requirements for hotels at one space per two hotel rooms. Banquet facilities are assumed to be included within this requirement. As a point of comparison, the Urban Land Institute (ULI) manual, *Shared Parking* (2nd Ed.), was also reviewed to compare the hotel and conference facility parking demand data included in this publication with the parking proposed for the Hyatt Regency. The ULI manual has compiled parking data from land uses throughout the United States and identifies typical peak parking rates for specific land uses and opportunities for shared parking between adjacent land uses.



3. Revisions to the Draft EIR

Shared Parking identifies a peak demand of 20 parking spaces per 1,000 square feet of facility space for hotels with ballroom/banquet facilities that exceed 50 square feet per guest room. The Hyatt Regency would provide ~~63.5~~ **70.1** square feet of ballroom/banquet facility space per guest room if the proposed expansion is approved. This ratio results in a forecast peak demand of ~~608~~ **672** parking spaces for the ballroom/ banquet facilities.

~~Together, the hotel guest rooms and banquet facilities would be anticipated to have a combined parking demand of 804 spaces, allocated as 608 spaces for the banquet facility and 196 spaces for the hotel guest rooms. However, this assumes that the peak time periods for parking demand for each use overlap. *Shared Parking* also forecasts peak parking demand time periods based on actual parking surveys of specific land uses. Table 5.11-7 summarizes parking demand for the Hyatt Regency on an hourly basis for a typical weekday.~~

***Shared Parking* also recommends making adjustments to the parking demand for certain land uses to account for captive and noncaptive users. Banquet/Meeting space or convention space at hotels is identified as a use where captive/noncaptive users should be considered when determining peak parking demand. In the case of a hotel, a captive user would be someone staying at the hotel and then attending an event or conference in the banquet/meeting facilities at the same hotel. Since the parking space occupied by this hotel guest is accounted for in the parking demand for the hotel rooms, counting this occupied parking space for the banquet/meeting room facilities would be a double count of the parking demand generated by this single user. Noncaptive users would be banquet/meeting attendees who drive to the hotel and park for the sole purpose of attending a function in the banquet/meeting facilities. These are typically local residents who would not need to stay at the hotel or visitors traveling to and from the airport, but not staying overnight.**

The procedures outlined in *Shared Parking* call for the application of a noncaptive ratio to the estimated parking demand to determine the appropriate reduction in the overall parking demand for the facility. For example, if the percentage of noncaptive users of a banquet/meeting facility was determined to be 75 percent of the attendees, with 25 percent of attendees staying at the hotel, the peak parking demand would be reduced by 25 percent to ensure that only noncaptive users are counted.

Two default noncaptive ratios are provided in *Sharing Parking*. A 60 percent noncaptive ratio is identified for hotels with 20 to 50 square feet of banquet/meeting space per guest room. For hotels with more than 50 square feet of banquet/meeting space per guest room, a 25 percent non-captive ratio is identified. For the purposes of this parking demand analysis and based on input from the Hyatt Newport owner, it was determined that these default noncaptive ratios would likely be too aggressive, and their application could result in an underestimation of the anticipated parking demand for the hotel's banquet/meeting facilities. Instead, this parking demand analysis uses a 90 percent noncaptive ratio, which is consistent with the ratio identified in a study of hotel parking published in *Urban Land*.⁶ The 90 percent noncaptive ratio results in a more conservative analysis and estimate of potential parking demand.

Applying the 90 percent noncaptive ratio to the demand for 672 parking spaces assigned to the banquet/meeting facilities results in a final parking demand estimate of 605 parking spaces. Together, the hotel guest rooms and banquet facilities would be anticipated to have a combined parking demand of 801 spaces, allocated as 605 spaces for the banquet facility and 196 spaces for the hotel guest rooms. However, this assumes that the peak time periods for parking demand for

⁶ Gerald Salzman, "Hotel Parking: How Much is Enough?" *Urban Land*, January 1988.

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each use overlap. *Shared Parking* also forecasts peak parking demand by time period based on actual parking surveys of specific land uses. Table 5.11-7 summarizes parking demand for the Hyatt Newport hotel on an hourly basis for a typical weekday.

**Table 5.11-7
Hyatt Regency Hotel Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Hotel Guest Room Demand</i>	<i>Banquet/Meeting Facility Demand with Noncaptive Adjustment (90%)</i>	<i>Total Demand</i>	<i>Available Parking</i>
8 AM	176	304 302	480 478	305 307
9 AM	157	608 605	765 762	20 23
10 AM	137	608 605	745 742	40 43
11 AM	137	608 605	745 742	40 43
12 PM	127	608 605	735 732	50 53
1 PM	127	608 605	735 732	50 53
2 PM	137	608 605	745 742	40 43
3 PM	137	608 605	745 742	40 43
4 PM	147	608 605	755 752	30 33
5 PM	157	608 605	765 762	20 23
6 PM	167	304 302	471 469	314 316
7 PM	167	182 181	349 348	436 437
8 PM	176	182 181	359 357	426 428
9 PM	186	61 60	247 246	538 539
10 PM	186	0	186	599
11 PM	196	0	196	589



Based on these forecast parking demand rates, at no time would the Hyatt Regency exceed the current project development plan for 785 parking spaces for use by the hotel guest rooms and ballroom/banquet facilities.

Additional analysis of the timeshare parking facilities is also necessary, because 140 parking spaces for the timeshare units and clubhouse area would be required per the City of Newport Beach Zoning Code. As shown in the Table 5.11-6, 127 parking spaces would be reserved for the exclusive use of the timeshare units and clubhouse. Possible timeshare overflow parking demand could be accommodated in the general hotel parking. Hourly parking demand forecasts from *Shared Parking* were used to estimate the peak parking demand generated by the timeshare units and the associated clubhouse facility. The results of this forecast are summarized in Table 5.11-8.

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**Table 5.11-8
Hyatt Regency Timeshare Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Timeshare Unit Demand</i>	<i>Clubhouse/Lounge Demand</i>	<i>Total Demand</i>	<i>Available Parking</i>
8:00 AM	95	10	106 105	21 22
9:00 AM	85	3	88	39
10:00 AM	74	3	78 77	49 50
11:00 AM	74	2	76	51
12:00 PM	69	34	103	24
1:00 PM	69	34	103	24
2:00 PM	74	11	85	42
3:00 PM	74	3	78 77	49 50
4:00 PM	80	3	83	44
5:00 PM	85	10	95	32
6:00 PM	90	19	109	18
7:00 PM	90	20	110	17
8:00 PM	95	24	119	8
9:00 PM	101	23	123 124	4 3
10:00 PM	101	20	121	6

Table 5.11-8 shows that the anticipated parking demand generated by the timeshare units and the associated clubhouse facility would not exceed the exclusive parking designated for the timeshare facilities. Additionally, overflow-parking demand from the timeshare units and facilities could be accommodated in the general hotel parking facilities. Table 5.11-9 summarizes parking demand for the overall Hyatt Regency hotel expansion uses.

**Table 5.11-9
Hyatt Regency Total Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Hotel Demand</i>	<i>Timeshare Demand</i>	<i>Total Demand</i>	<i>Available Parking</i>
8:00 AM	480 478	106	586 584	326 328
9:00 AM	765 762	88	853 850	59 62
10:00 AM	745 742	78	823 820	89 92
11:00 AM	745 742	76	821 818	91 94
12:00 PM	735 732	103	838 835	74 77
1:00 PM	735 732	103	838 835	74 77
2:00 PM	745 742	85	831 827	81 85
3:00 PM	745 742	78	823 820	89 92
4:00 PM	755 752	83	838 835	74 77
5:00 PM	765 762	95	860 857	52 55
6:00 PM	471 469	109	579 578	333 334
7:00 PM	349 348	111	460 459	453
8:00 PM	359 357	119	478 477	434 435
9:00 PM	247 246	123	370 369	542 543
10:00 PM	186	121	307	605

Based on the forecast parking demand summarized in Table 5.11-9, the proposed project would provide sufficient parking facilities to meet parking demand generated by the hotel and timeshare facilities. However, without an approved valet parking plan, parking could be a significant impact.

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3.3 DEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the DEIR.

Pages 1-7 to 1-23, Table 1-1, Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation This Table has been reproduced in its entirety as Appendix A to this FEIR for reference due to missed pages in some copies of the DEIR.

Page 2-2, Section 2.3.2, Potentially Significant Adverse Impacts. The text has been revised in response to Comment O1-3 from the Environmental Quality Affairs Committee.

~~Four~~ **Five** environmental impact categories are identified here as not being significantly affected by, or affecting the proposed project and as such are not discussed in detail in this DEIR. This determination was made by the City of Newport Beach in its preparation of the Initial Study. The following topical issues are not addressed in the DEIR:

- Agricultural Resources
- Mineral Resources
- Population and Housing
- Recreation
- **Utilities and Service Systems**



~~Thirteen~~ **Eleven** environmental factors have been identified as potentially significant impacts if the proposed project is implemented. These factors are:

- Aesthetics
- ~~Agricultural Resources~~
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation and Traffic
- ~~Utilities and Service Systems~~

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Page 3-15, Figure 3-6, Site Sections. This figure has been modified to enlarge the text description of the heights of the buildings for individual Site Sections in response to comment R11-23 from Sandra Genis. Please see revised Figure 14.

Page 3-21, Section 3, Project Description. The text has been revised in response to Comment O1-9 from the Environmental Quality Affairs Committee.

Pursuant to the Newport Beach Municipal Code (10.28.040), construction hours would be limited to between 7:00 AM and 6:30 PM, Monday through Friday, and Saturdays between 8:00 AM and 6:00 PM. Construction would not occur on Sundays. Exceptions to these construction hours can be made when the maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours, as outlined in Section 10.28.040 of the City's Municipal Code. ~~Because improvements to the sewer and storm drain utilities within the Jamboree Road right-of-way would necessitate closure of up to two southbound travel lanes, construction activities associated with these improvements would likely be conducted in the evening and late night hours when background traffic levels are lower. Construction of these utility improvements is estimated to take four to six weeks to complete.~~

Page 5.1-35, Section 5.1, Aesthetics, City of Newport Beach Standard Conditions, Condition 3. The text has been revised in response to Comment O1-8 from the Environmental Quality Affairs Committee.

Standard Lighting Condition 3. Prior to the issuance of a building permit, the applicant shall prepare a photometric study in conjunction with a final lighting plan for approval by the Planning Department. **The plan shall show that lighting values would be 1 foot-candle or less at all property lines.**

Page 5.2-18, Section 5.2, Air Quality, Table 5.2-9. Footnote 2 has been corrected in response to Comment O1-13 from the Environmental Quality Affairs Committee.

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**Table 5.2-9
Project-Related Construction Phase Emissions
(in pounds per day)**

<i>Construction Phase¹</i>	<i>CO</i>	<i>NO_x</i>	<i>ROG</i>	<i>SO₂</i>	<i>PM₁₀²</i>	<i>PM_{2.5}²</i>	<i>CO₂³</i>
Demolition	23	42	5	<1	11	4	4,383
Site Grading	39	76	9	<1	17	7	7,701
Building Construction	46	65	22	<1	5	5	7,151
SCAQMD Standard	550	100	75	150	150	55	NA
Significant?	No	No	No	No	No	No	NA

Source: URBEMIS2007 Version 9.2.2.

¹ Construction equipment mix based on preliminary construction information from the project engineer.

² Fugitive dust emissions assume one-quarter of the approximately 14 acres site would be graded at any one time. Fugitive dust emissions assume implementation of SCAQMD Rule 403 for fugitive dust control, including: watering disturbed soils a minimum of two times daily, reestablishing disturbed groundcover as quickly as possible, reducing speeds on unpaved roads to no more than 15 miles per hour, and securing haul loads (covering with tarp or leaving a minimum of 24 6 inches of freeboard).

³ CO₂ emissions are provided for informational purposes only. The SCAQMD or CARB have yet to establish regional emissions thresholds for this air pollutant.

Page 5.3-20, Section 5.3, Biological Resources, Impact 5.3-1. This impact has been refined to more accurately represent the revised Site Plan in Figure 9 in response to comment O4-2 from Robert Hamilton, as addressed to SPON.



As detailed in Section 5.3.1, *Environmental Setting*, the coastal sage scrub habitat adjacent to the project site is assumed ESHA. In addition to the policies reviewed in that section to determine ESHA, Chapter 4, *Coastal Resource Protection*, of the Coastal Land Use Plan includes the following policies to protect ESHAs:

- 4.1.1.-3 Prohibit new development that would necessitate fuel modification in ESHA.
- 4.1.1-4 Protect ESHAs against any significant disruption of habitat values.
- 4.1.1-5 Design land divisions, including lot line adjustments, to preclude new development within and minimize impacts to ESHAs.
- 4.1.1-6 Require development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts that would significantly degrade those areas, and to be compatible with the continuance of those habitat areas.
- 4.1.1.-10 Require buffer areas of sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Terrestrial ESHA shall have a minimum buffer width of 50 feet wherever possible. Smaller ESHA buffers may be allowed only where it can be demonstrated that 1) a 50-foot-wide buffer is not possible due to site-specific constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the ESHA given the site-specific characteristics of the resource and of the type and sensitivity of disturbance.

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- 4.1.1.-11 Provide buffer areas around ESHAs and maintain with exclusively native vegetation to serve as transitional habitat and provide distance and physical barriers to human and domestic pet intrusion.
- 4.1.1.-12 Require the use of native vegetation and prohibit invasive plant species within ESHAs and ESHA buffer areas.
- 4.1.1.-13 Shield and direct exterior lighting away from ESHAs to minimize impacts to wildlife.
- 4.2.2.-3 Require buffer areas around wetlands to be of sufficient size to ensure the biological integrity and preservation of the wetland that they are designed to protect. Wetlands shall have a minimum buff width of 100 feet wherever possible. Smaller buffer widths may be allowed only where it can be demonstrated that 1) a 100 foot buffer is not possible due to site constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource, and of the type and intensity of disturbance.**

The project design would result in complete avoidance of off-site CSS. As shown on Figure 5.3-4, *Vegetation and Fuel Modification*, neither grading nor fuel modification activities would remove any CSS. In addition, the project design includes a minimum ~~50~~ **100**-foot buffer between developed areas and off-site CSS to assure full compliance with the City's Coastal Land Use Policies.

Page 5.3-21, Figure 5.3-4, Vegetation & Fuel Modification. This figure has been modified to enlarge the text description of the Fuel Modification Zones in response to Comment O1-17 from the Environmental Quality Affairs Committee and to add the Hyatt Regency property boundary in Response to comment R11-9 from Sandra Genis. Please see revised Figure 2.

Page 5.3-23, Impact 5.3-4. This impact has been refined to more accurately represent potential impacts to foraging habitat in response to comment R11-32 (12) from Sandra Genis.

Impact 5.3-4: Project development would not adversely ~~could~~ impact migratory birds and raptor foraging habitat. [Threshold B-2]

The Hyatt Regency golf course property currently contains ornamental trees and shrubs that have the potential to support nesting birds. Impacts to such species are prohibited under the Migratory Bird Treaty Act. The property is an open golf course adjacent to open space that supports, at best, moderate-quality foraging habitat for common raptor species. Impacts to potential foraging area would not be considered significant. **In the postproject condition, there would actually be an increase in forage as currently much of the Special Treatment Area consists of golf course turf, bare areas, or weedy species. The native plantings to be installed in the Special Treatment Zone would actually increase the foraging potential for a variety of species.** ~~However, to assure protection of potential foraging habitat, mitigation has been provided at the end of this section.~~

Page 5.3-25, Section 5.3, Biological Resources, Mitigation Measure 3-2. The text has been revised in response to Comment R-11 from Sandra Genis.

- 3-2 If construction occurs during the CAGN breeding season (February 15 to July 15), a biological monitor shall conduct weekly surveys of the coastal sage scrub within 300 feet

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of grading activities. If CAGN nest are located within 300 feet, noise monitoring shall be implemented and where construction noise exceeds 60 decibels ~~and the birds appear to be distressed~~, noise mitigation shall be implemented and may include (but is not limited to) construction of noise barriers, change in grading arrays, or other means determined appropriate by the project biologist.

Page 5.5-14, Section 5.5, Geology and Soils, Mitigation Measure 5-3. The text has been revised in response to Comment R-3 through R-5 from Delores Otting.

- 5-3 Prior to issuance of grading permits, a detailed ~~design~~ **engineering-level** geotechnical investigation report shall be prepared and submitted with engineered grading plans to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions and to provide site-specific recommendations to address these conditions, if determined necessary. **The engineering-level report shall include and address each of the recommendations included in the geotechnical report prepared by Kleinfelder and included as DEIR Appendix F (Kleinfelder, November 29, 2004, Project No. 61618).** The geotechnical reports shall be prepared and signed/stamped by a Registered Civil Engineer specializing in geotechnical engineering and a Certified Engineering Geologist. Geotechnical rough grading plan review reports shall be prepared in accordance with the City of Newport Beach Grading Ordinance.

Page 5.5-14 through 5.5-16, Section 5.6, Hazards and Hazardous Material, Mitigation Measure 6-1. The text has been revised to reflect current changes.

- 6-1 The project applicant or successor in interest shall comply with the provisions in the Fire Protection Plan (FPP) as reviewed and approved by the Newport Beach Fire Department (Nbfd), including but not limited to the following specific provisions:

Water Supply and Fire Flow

- Fire hydrants and fire flow capacity shall be approved by the fire Chief. A reduction in required fire flow of up to 50 percent, as approved by the Fire Chief, may be allowed when the building is provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,500 gallons per minute.



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Fire Access

- New driveway entrance areas shall be designed to City requirements with all-weather driving surface of A.C. paving over approved base and a capacity rating of at least 75,000 pounds, to accommodate fire apparatus. Approach/departure angles associated with development driveways shall not exceed 3 degrees.
- The minimum width of fire lanes shall be 26 feet.
- There are no planned traffic calming devices
- Adequate fire apparatus turnarounds shall be provided and approved by the Nbfd (current plans include a minimum 28-foot turning radius adjacent to Building TS-7 and another turnaround located adjacent to Building TS-4/Clubhouse).
- Unobstructed firefighter access to all portions of the buildings via walkways, driveways, or trails shall be provided. A minimum of 3 feet for firefighter access shall be maintained along both sides of all structures adjacent to fuel modification zones.
- Roads and access components (gates, sign, etc.) shall be maintained in perpetuity by the property owner.

Building Fire and Ignition Resistance

- The project shall include ignition-resistant construction features consistent with current fire and building codes for the proposed structures exposed to wildland vegetation (buildings TS-1, TS-2, TS-3, and TS-4). Enhanced structural requirements shall be provided for the following as detailed in the FPP: roofing, fire-resistive walls, eaves protection, venting, glazing, skylights, insulation, gutters and downspouts, appendages and projections, spark arrestors, exterior doors, and detached accessory structures.

Fire Protection Systems

- Buildings shall be fully sprinklered per the appropriate National Fire Protection Association sprinkler standard for the occupancy.

Defensible Space

- The Fuel Modification Plan (see details, Section 3.4.3 of this Draft EIR and the FPP, Appendix H) shall be reviewed and modified as appropriate to obtain approval by the Nbfd. The approved final fuel modification plan shall be installed under the supervision of the Nbfd. Brush removal must be completed prior to commencing any flammable construction, and final inspection and approval must be obtained prior to issuance of certificates of occupancy for any structures adjacent to the fuel modification area.
- Fuel Modification Zones shall be subject to an annual inspection conducted by a representative of the City in order to assure that zones are maintained in compliance with the applicable fuel modification requirements. The property owner shall maintain defensible space in accordance with the Fuel Modification Plan as approved.

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Vegetation Management

The fuel modification area along the northern boundary of the project lies partially on the Hyatt Regency property, ~~partially on property owned by the City of Newport Beach, and partially on property owned by the Irvine Company.~~

- The proposed landscape plan/fuel modification zone plant palette shall be reviewed and approved by the Nbfd. Landscape plans shall comply with all landscaping requirements.
- Defensible space vegetation management responsibility is assigned to persons/company(ies) owning buildings or structures on this property.
- Maintenance of defensible spaces shall occur annually, prior to May 1, or more often, as determined by the Nbfd. Maintenance of the defensible space shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles, and other dead vegetative material regularly removed from roofs of buildings and structures.
- Maintenance and funding for vegetation management shall be required and enforced by deed encumbrances, which are attached to the property. Such deed encumbrances shall be reviewed and approved by Nbfd Chief.
- An agreement with the neighboring property owners (as described above), to be conveyed with deed, for permanent maintenance of landscape area that also serves as extended fuel modification area for Hyatt property.
- Vegetation management shall be completed prior to the start of and continue throughout the construction phase. Prior to site demolition, adequate fuel breaks shall be constructed between demolition areas and existing flammable vegetation.
- Vegetation maintenance includes ensuring operation of irrigation systems.
- Vegetation maintenance is required following wind and rain storms to remove combustible plant-related debris from fuel modification zones.
- Caution must be exercised on steep slopes to minimize erosion with the removal of vegetation and the addition of irrigation.



Page 5.7-26, Section 5.7, Hydrology and Water Quality, Table 5.7-3, Construction BMPs. The list of proposed BMP Descriptions has been revised in response to Comment O1-29. From the Environmental Quality Affairs Committee, to eliminate polyacrylamide as a potential BMP for erosion control.

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**Table 5.7-3
Construction BMPs**

BMP Category	BMP Description			
Erosion Controls	EC-1	Scheduling	EC-8	Wood Mulching
	EC-2	Preservation of Existing Vegetation	EC-9	Earth Dikes and Swales
	EC-3	Hydraulic Mulch	EC-10	Velocity Dissipation Devices
	EC-4	Hydroseeding	EC-11	Slope Drains
	EC-5	Soil Binders	EC-12	Streambank Stabilization
	EC-6	Straw Mulch	EC-13	Polyacrylamide
	EC-7	Geotextiles and Mats		
Sediment Controls	SE-1	Silt Fence	SE-7	Street Sweeping
	SE-2	Desilting Basin	SE-8	Sandbag Barrier
	SE-3	Sediment Trap	SE-9	Straw Bale Barrier
	SE-4	Check Dam	SE-10	Chemical Treatment
	SE-5	Fiber Rolls	SE-11	Chemical Treatment
	SE-6	Gravel Bag Berm		
Wind Erosion Controls	WE-1	Wind Erosion Control		
Tracking Controls	TC-1	Stabilized Construction Entrance / Exit		
	TC-2	Stabilized Construction Roadway		
	TC-3	Entrance / Outlet Tire Wash		
Non-Stormwater Management Controls	NS-1	Water Conservation Practices	NS-9	Vehicle & Equipment Fueling
	NS-2	Dewatering Operations	NS-10	Vehicle & Equipment Mainten.
	NS-3	Paving and Grinding Operations	NS-11	Pile Driving Operations
	NS-4	Temporary Stream Crossing	NS-12	Concrete Curing
	NS-5	Clear Water Diversion	NS-13	Concrete Finishing
	NS-6	IC/ID Detection and Reporting	NS-14	Material Use Over Water
	NS-7	Potable Water / Irrigation	NS-15	Demolition Over Water
	NS-8	Vehicle & Equipment Cleaning	NS-16	Temporary Batch Plants
Waster Management and Controls (i.e., good housekeeping practices)	WM-1	Material Delivery & Storage	WM-6	Hazardous Waste
	WM-2	Material Use	WM-7	Contaminated Soil
	WM-3	Stockpile Management	WM-8	Concrete Waste
	WM-4	Spill Prevention and Control	WM-9	Sanitary / Septic Waste
	WM-5	Solid Waste Management		

Source: Fuscoe Engineering, *Water Quality Report, Hyatt Regency Newport Beach*, January 2007.

Page 5.8-21 and 5.8-22, Land Use, Impact 5.8-1, Table 5.8-1. This Table reflects the relocation of Building No. TS-1 in the revised site plan/grading plan in Figure 9. This is in response to comment O4-2 from Robert Hamilton, as addressed to SPON.

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Safety Element	
Goal S 6 – Protection of human life and property from the risks of wildfires and urban fires.	
<p>S 6.3 New Development Design (page 11-27). Site and design new development to avoid the need to extend fuel modification zones into sensitive habitats.</p>	<p>As a part of the proposed project, the project applicant’s biological consultant prepared a fire protection plan (see DEIR, Appendix D). As outlined in the fire protection plan and as discussed in Impact 5.3-1, the proposed project and related fuel modification would not remove any CSS, which is considered an ESHA, and would comply with the City’s Coastal Act policies set forth to protect ESHAs. The project design would result in complete avoidance of off-site CSS. As shown on Figure 5.3-4, <i>Vegetation and Fuel Modification</i>, neither grading nor fuel modification activities would remove any CSS. In addition, project design includes a minimum 50 100-foot buffer between developed areas and off-site CSS to assure full compliance with the City’s Coastal Land Use Policies.</p>
<p>S 6.4 Use of City-Approved Plant List (page 11-27). Use fire-resistive, native plant species from the City-approved plant list in fuel modification zones abutting sensitive habitats.</p>	<p>As outlined in the fire protection plan (see Appendix D of this DEIR), fuel modification zones were created to provide a means for the installation and maintenance of landscaping along the projects northern boundary, which abuts CSS and other sensitive habitats(see Appendix C, Conceptual Fuel Modification Plan, of the Fire Protection Plan). The Special Treatment Zone for example would include the following provisions:</p> <ul style="list-style-type: none"> • Allow 50 100 feet of fuel modification adjacent to the sensitive CSS habitat immediately north of the project site. • Maintained, irrigated landscaping is limited to ground cover material chosen from the approved Newport Beach Fire Department fire-resistive plant list. Ground cover is to be irrigated and maintained at a height of 8 inches or less and free of dead plant material. • Native Carex grass species (Carex spp.) are to be planted exclusively in the Special Treatment Zone and maintained at a height of 8 inches or less. Plant material shall be irrigated to maintain adequate fuel moistures. <p>Fuel Modification Zones A to D would include requirements such as:</p> <ul style="list-style-type: none"> • Irrigated ground cover selected from the fire-resistive plant list shall be maintained at a height not to exceed 8 inches. • Shrubs or trees proposed for planting in this zone shall be in accordance with planting guidelines and spacing standards established in the NBFDF Fuel Modification Standards. All combustible plant species shall be removed and the area shall be maintained free of dead and dying plant material • Maintenance shall include ongoing removal and/or thinning of undesirable combustible vegetation, replacement of dead/dying fire-resistant plantings, maintenance of the operations integrity, and programming of the irrigation system, and regular trimming to prevent ladder fuels. • Nonnative trees shall be treated to remove dead and dying limbs and trees and to create vertical separation of tree canopies from understory fuels.

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Page 5.11-22, 23, Section 5.11, Transportation/Traffic, Tables 5.11-7, 5.11-8 and 5.11-9. Corrections to these tables were required per Comment O1-41. The referenced tables were updated and corrected in conjunction with the refined parking analysis conducted to address minor discrepancies in the net square footage for proposed ballroom and meeting space. Please refer to Section 3.2, *DEIR Updates and Clarification* for updated tables and discussion.

**Table 5.11-7
Hyatt Regency Hotel Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Hotel Guest Room Demand</i>	<i>Banquet/Meeting Facility Demand with Non-Captive Adjustment (90%)</i>	<i>Total Demand</i>	<i>Available Parking</i>
8 AM	176	304 302	480 478	305 307
9 AM	157	608 605	765 762	20 23
10 AM	137	608 605	745 742	40 43
11 AM	137	608 605	745 742	40 43
12 PM	127	608 605	735 732	50 53
1 PM	127	608 605	735 732	50 53
2 PM	137	608 605	745 742	40 43
3 PM	137	608 605	745 742	40 43
4 PM	147	608 605	755 752	30 33
5 PM	157	608 605	765 762	20 23
6 PM	167	304 302	471 469	314 316
7 PM	167	182 181	349 348	436 437
8 PM	176	182 181	359 357	426 428
9 PM	186	61 60	247 246	538 539
10 PM	186	0	186	599
11 PM	196	0	196	589



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**Table 5.11-8
Hyatt Regency Timeshare Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Timeshare Unit Demand</i>	<i>Clubhouse/Lounge Demand</i>	<i>Total Demand</i>	<i>Available Parking</i>
8:00 AM	95	10	106 105	21 22
9:00 AM	85	3	88	39
10:00 AM	74	3	78 77	49 50
11:00 AM	74	2	76	51
12:00 PM	69	34	103	24
1:00 PM	69	34	103	24
2:00 PM	74	11	85	42
3:00 PM	74	3	78 77	49 50
4:00 PM	80	3	83	44
5:00 PM	85	10	95	32
6:00 PM	90	19	109	18
7:00 PM	90	20	110	17
8:00 PM	95	24	119	8
9:00 PM	101	23	123 124	4 3
10:00 PM	101	20	121	6

**Table 5.11-9
Hyatt Regency Total Off-Street Parking Demand Forecast**

<i>Time Period</i>	<i>Hotel Demand</i>	<i>Timeshare Demand</i>	<i>Total Demand</i>	<i>Available Parking</i>
8:00 AM	480 478	106	586 584	326 328
9:00 AM	765 762	88	853 850	59 62
10:00 AM	745 742	78	823 820	89 92
11:00 AM	745 742	76	821 818	91 94
12:00 PM	735 732	103	838 835	74 77
1:00 PM	735 732	103	838 835	74 77
2:00 PM	745 742	85	831 827	81 85
3:00 PM	745 742	78	823 820	89 92
4:00 PM	755 752	83	838 835	74 77
5:00 PM	765 762	95	860 857	52 55
6:00 PM	471 469	109	579 578	333 334
7:00 PM	349 348	111	460 459	453
8:00 PM	359 357	119	478 476	434 436
9:00 PM	247 246	123	370 369	542 543
10:00 PM	186	121	307	605

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Page 30, Appendix A, Initial Study. The checkbox for question XVI. b) Utilities and Service Systems, has been corrected in response to Comment O1-3, from the Environmental Quality Affairs Committee.

XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed waste water treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or waste water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	X		X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources or are new or expanded entitlements needed?			X	
e) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	



3.4 REVISED AND NEW FIGURES

As referenced throughout this Final EIR, the report figures that follow are revisions of figures that already appear in the DEIR (as indicated) or new figures provided for clarification to respond to comments.

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Figure 1 Imaginary Surface Analysis

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Figure 2 Vegetation and Fuel Modification

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Figure 3 Lighting Plan

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Figure 4 Parking Structure Elevations

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Figure 5 Construction Traffic Access

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Figure 6 Proposed Storm Water BMPs

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Figure 7 Ballroom Elevations

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Figure 8 Landscape Plan

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Figure 9 **Hyatt Site Plan/Grading Plan**

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Figure 10 Earthwork Cut/Fill

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Figure 11 Parking Plan

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Figure 12 View Simulation 2

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Figure 13 View Simulation 3

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Figure 14 Site Sections

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Figure 15 Existing Building Setbacks

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Figure 16 **Visual Simulation from Newport Dunes**

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Figure 17 **Land Use Map**

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Figure 18 Subwatersheds and Monitoring Location

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Figure 19 Newport Bay Watershed

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Figure 20 Flood Insurance Rate Map

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Figure 21 Existing Hydrology

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Figure 22 Proposed Hydrology

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Appendix A

*Summary of Environmental Impacts, Mitigation Measures,
and Levels of Significance after Mitigation*



Appendices

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**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.1 AESTHETICS			
5.1-1: The proposed project would not have a substantial adverse effect on scenic vistas or substantially alter the visual appearance of the project site.	Less than significant	No mitigation measures are necessary.	Less than significant
5.1-2: The proposed project would generate additional nighttime light and glare.	Less than significant	No mitigation measures are necessary.	Less than significant
5.2 AIR QUALITY			
5.2-1: The proposed project is consistent with the applicable Air Quality Management Plan.	Less than significant	No mitigation measures are necessary.	Less than significant
5.2-2: The proposed project is not a regionally significant project that could potentially cumulatively contribute to climate change impacts in California.	Less than significant	No mitigation measures are necessary.	Less than significant
5.2-3: Construction activities associated with the proposed project would not generate short-term emissions in exceedance of SCAQMD's threshold criteria.	Less than significant	No mitigation measures are necessary.	Less than significant
5.2-4: Long-term operation of the project would not generate additional vehicle trips and associated emissions in exceedance of SCAQMD's threshold criteria.	Less than significant	No mitigation measures are necessary.	Less than significant
5.2-5: The proposed project would not expose sensitive receptors to substantial pollutant concentrations.	Less than significant	No mitigation measures are necessary.	Less than significant

Appendices

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.3 BIOLOGICAL RESOURCES			
5.3-1: The proposed development and related fuel modification would not remove any coastal sage scrub and would comply with the City's Coastal Act policies set forth to protect environmentally sensitive habitat areas (ESHAS).	Less than significant	No mitigation measures are necessary.	Less than significant
5.3-2: Construction-related activities could have a temporary adverse impact on coastal California gnatcatchers nesting in preserved areas of coastal sage scrub adjacent to the site.	Potentially significant	3-1 The applicant shall comply with all requirements of the NCCP/HCP, including construction-related minimization and mitigation measures that minimize impacts to the coastal California gnatcatcher and other coastal sage scrub species. These include: <ul style="list-style-type: none"> To the maximum extent practicable, no grading of coastal sage scrub habitat that is occupied by nesting gnatcatchers shall occur during the breeding season (February 15 through July 15). It is expressly understood that this provision and the remaining provisions of these "construction-related minimization measures" are subject to public health and safety considerations. These considerations include unexpected slope stabilization, erosion control measures, and emergency facility repairs. In the event of such public health and safety circumstances, landowners or public agencies/utilities will provide USFWS/CDFG with the maximum practicable notice (or such notice as is specified in the NCCP/HCP) to allow for capture of gnatcatchers, cactus wrens, and any other coastal sage scrub Identified Species that are not otherwise flushed, and shall carry out the following measures only to the extent practicable in the context of public health and safety considerations. Prior to commencement of grading operations or other activities involving significant soil disturbance, all areas of coastal sage scrub habitat to be avoided under the provisions of the NCCP/HCP shall be identified with temporary fencing or other markers clearly visible to construction personnel. Additionally, prior to the commencement of grading operations or other activities involving disturbance of coastal sage scrub, a survey shall be conducted to locate gnatcatchers and cactus wrens within 100 feet of the outer extent of projected soil disturbance activities and the locations of any such species shall be clearly marked and identified on the construction/grading plans. Following the completion of initial grading/earth movement activities, all areas of coastal sage scrub habitat to be avoided by construction equipment and personnel shall be marked with temporary fencing and other appropriate markers clearly 	Less than significant

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<p>visible to construction personnel. No construction access, parking, or storage of equipment or materials shall be permitted within such marked areas.</p> <ul style="list-style-type: none"> • In areas bordering the NCCP Reserve System or Special Linkage/Special Management areas containing significant coastal sage scrub identified in the NCCP/HCP for protection, vehicle transportation routes between cut-and-fill locations shall be restricted to a minimum number during construction consistent with project construction requirements. Waste dirt or rubble shall not be deposited on adjacent coastal sage scrub identified in the NCCP/HCP for protection. Preconstruction meetings involving the monitoring biologist, construction supervisors, and equipment operators shall be conducted and documented to ensure maximum practicable adherence to these measures. • Coastal sage scrub identified in the NCCP/HCP for protection and location within the likely dust drift radius of construction areas shall be periodically sprayed with water to reduce accumulated dust on the leaves as recommended by the monitoring biologist. <p>3-2 If construction occurs during the CAGN breeding season (February 15 to July 15), a biological monitor shall conduct weekly surveys of the coastal sage scrub within 300 feet of grading activities. If CAGN nest are located within 300 feet, noise monitoring shall be implemented and where construction noise exceeds 60 decibels, noise mitigation shall be implemented and may include (but is not limited to), construction of noise barriers, change in grading arrays, or other means determined appropriate by the project biologist.</p> <p>3-3 To ensure that project lighting along the northern perimeter of the site does not cause significant impacts to nesting gnatcatchers, the following measures shall be implemented:</p> <ul style="list-style-type: none"> • All lighting within 100 feet of coastal sage scrub shall be directed away from coastal sage scrub habitat. • All lighting within 100 feet of coastal sage scrub shall consist of the lowest intensities that still provide for adequate safety. • A qualified biologist shall review lighting plans prior to construction to ensure that the proposed lighting minimizes potential impacts on the California gnatcatcher. 	

Appendices

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.3-3: Development of the proposed project would not impact any sensitive plant species.	Less than significant	No mitigation measures are necessary.	Less than significant
5.3-4: Project development could impact migratory birds and raptor foraging habitat.	Potentially significant	<p>3-4 During project construction, all trees to be removed shall be identified. Such trees should be removed outside the avian nesting season, which extends from March 14 to July 15.</p> <p>3-5 If for some reason it is not possible to remove all trees during the nonnesting season, then trees to be removed shall be surveyed by a qualified biologist no more than three days prior to removal. If no nesting birds are found, the tree may be removed. If nesting birds are detected, then removal must be postponed until the fledglings have vacated the nest or the biologist has determined that the nest has failed. Furthermore, the biologist shall establish an appropriate buffer zone where construction activity may not occur until the fledglings have vacated the nest or the biologist has determined that the nest has failed.</p> <p>3-6 For trees being preserved, if construction is to occur during the nesting season, preserved trees shall be surveyed for the presence of nesting birds. If nesting birds are detected, the biologist shall establish an appropriate buffer zone where construction activity may not occur until the fledglings have vacated the nest or the biologist has determined that the nest has failed.</p>	Less than significant
5.3-5: The proposed project would not affect wildlife movement.	Less than significant	No mitigation measures are necessary.	Less than significant
5.3-6: The proposed project would not conflict with any local policies or ordinances and would comply with the provisions of the central/coastal HCP/NCCP.	Less than significant	No mitigation measures are necessary.	Less than significant
5.3-7: The proposed project would comply with the provisions of the central/coastal HCP/NCCP.	Potentially significant	Mitigation Measures 3-1 through 3-3 apply.	Less than significant

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.4 CULTURAL RESOURCES			
5.4-1: Development of the project could impact archaeological resources.	Potentially significant	4-1 Prior to the issuance of a grading permit, the project applicant shall provide written evidence to the City of Newport Beach that the project applicant has retained an Orange County Certified Professional Archaeologist. The archeologist shall be retained for the duration of the excavation and grading activities to provide professional services and monitoring during all such activities. The archaeologist shall comply with the following tasks. <ol style="list-style-type: none"> 1) The archaeologist shall determine the extent of monitoring that is required during excavation and grading activities. The qualified archaeologist must have knowledge of both prehistoric and historical archaeology. The methods of archaeological monitoring, including timing, location, types of artifacts anticipated, and procedures for additional analysis, if necessary, shall be described in an archaeological monitoring plan. The extent and duration of the monitoring program shall be dependent upon the City-approved grading plans. The construction manager shall adhere to the stipulations of the archaeological monitoring plan. 2) The archaeological monitoring plan shall be developed prior to commencement of on-site grading activities. 3) Should any subsurface cultural resources be encountered, the archaeological monitor shall have the authority to halt grading activities until uncovered resources are evaluated and a determination of significance is made. If cultural resources are encountered, a Native American monitor with a Tongva/Gabrielino lineage, the project applicant, and the City of Newport Beach shall evaluate the significance of the resources and, if appropriate, shall determine appropriate treatment and mitigation of the resources. If cultural artifacts are recovered, any eligibility testing and/or determination of additional mitigation should be done in consultation with the Native American monitor. 4) During construction, if buried cultural resources, such as chipped or ground stone, historical artifacts, specimens, fossils, or human bone, are inadvertently discovered during ground-disturbing activities, the contractor shall ensure that all work will stop in that area and within 100 feet of the find until the qualified on-call archaeologist arrives on-site and can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City. 	Less than significant

Appendices

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<p>5) Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the archaeological monitor has evaluated discoveries to assess whether they are classified as historical resources or unique archaeological sites, pursuant to the California Environmental Quality Act (CEQA).</p> <p>6) A report that documents the findings of the program shall be prepared. The report shall provide an itemized inventory of the recovered specimens. Submission of the final report and inventory to the City of Newport Beach shall represent completion of the mitigation monitoring program for archeological resources. The report shall include a list of resources recovered, documentation of each site/locality, and interpretation of resources recovered and shall include all specialists' reports as appendices. All project documents, including field records and the report itself, should be included on a CD in portable document format. The CD shall be included a pocket at the rear of each copy of the report.</p> <p>4-2 Prior to the issuance of grading permits, a preconstruction testing plan for cultural resources shall be implemented. Testing may be conducted during the same period as demolition activities. However, ample time shall be allowed for the results of the testing to be evaluated and for possible redesign to avoid the findings sites or mitigation of destructive construction impacts on the sites. Testing shall be conducted as follows:</p> <ul style="list-style-type: none"> • Proposals to conduct testing shall include construction fencing and warning signs to protect patrons of the Hyatt Regency and the shoring of deep units and/or trenches to meet Occupational Safety and Health Administration (OSHA) standards. • A trench at least 20 meters in length within the footprints of Timeshare Buildings 1, 2, 4, and 5, for a total of four trenches. The depth of the trenches shall be 20 centimeters below any cultural or potential cultural levels and must be sufficient to determine site stratigraphy. Soil profiles and stratigraphic columns are required to document the site integrity or lack thereof. • If intact site deposits are demonstrated to be present within the footprints of Timeshare Buildings 1, 2, 4, and 5, then a minimum of two 1-meter-square units shall be placed in intact site areas, to be determined by the principal investigator. The units shall be dug in natural stratigraphic levels if possible and in 10-centimeter levels otherwise. These units will document the potential of the site to contribute new information to prehistory. Documentation shall be thorough and detailed. 	

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<ul style="list-style-type: none"> • A minimum of 10 to a maximum of 50 test pits shall be utilized to determine the boundaries of the site. The test pits should test the limits of the site at the limits of the project along the project footprint in the vicinity of timeshare buildings 1–7, the timeshare clubhouse, the new ballroom, and the new spa facility. • Limited testing of the new ballroom area shall be conducted to determine if resources exist in the area in order to avoid construction delays caused by unanticipated finds. • Artifacts recovered will be in the custody of the principal investigator until they are transported to the designated accredited repository and will be prepared, identified, and cataloged prior to transport. 	
5.4-2: The proposed project could destroy paleontological resources or a unique geologic feature.	Potentially significant	<p>4-3 Prior to the issuance of a grading permit, the project applicant shall provide written evidence to the City of Newport Beach that the applicant has retained an Orange County Certified Professional Paleontologist. The paleontologist shall be retained for the duration of the excavation and grading activities to provide professional services and monitoring during all such activities. The paleontologist shall comply with the following tasks.</p> <ol style="list-style-type: none"> 1) The paleontologist shall be responsible for implementing the mitigation plan and maintaining professional standards of work at all times. 2) The paleontologist shall attend the pregrade construction meeting and shall be invited to briefly define paleontological resources, discuss cooperation with the paleontological monitor, and outline the on-call procedures to be followed in the event of a discovery when the monitor is not present. 3) The paleontologist shall prepare monthly progress reports to be filed with the City. The principle investigator shall prepare a final report to be filed with the City. The report shall include a list of resources recovered, documentation for each locality, and interpretation of resources recovered. All specialists' reports shall be included as appendices. 4) Monitoring shall include inspection of exposed surfaces and microscopic examination of matrix. 5) The monitor will have authority to temporarily divert grading from exposed resources in order to recover the specimens and contextual data. 	Less than significant

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**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<p>6) If the discovery of paleontological resources meets the criteria for fossil locality, formal locality documentation activities shall be performed. In addition, samples shall be submitted for dating and other special analyses.</p> <p>7) If microfossil localities are discovered, the monitor shall collect matrix for processing. To limit downtime, the monitor may request heavy machinery assistance to move large quantities of matrix out of the path of construction to designated stockpile areas. Testing of stockpiles shall consist of screen washing small samples (200 pounds) to determine if fossils are present. Productive tests shall result in screen washing of additional matrix from the stockpiles to a maximum of 6,000 pounds per locality.</p> <p>8) Fossils recovered shall be prepared, identified, and cataloged before donation to the accredited repository that will maintain the collection for future scientific study and exhibition within Orange County, to be designated by the City. Such fossils shall be prepared, prior to donation, to the point of dedication. The project proponent shall be prepared to pay potential curation fees to the county or other suitable repository for long-term curation and maintenance of the donated collection. Any resources determined not to meet the significance criteria can be used in school education programs.</p>	
5.4-3: The proposed project's grading activities could result in the disturbance of human remains.	Potentially significant	4-4 Prior to issuance of grading permits, the project applicant shall place the following note on all grading plans: "If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his or her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials." This requirement shall also be discussed at the pregrade meeting(s).	Less than significant

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Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.5 GEOLOGY AND SOILS			
5.5-1: Persons and existing and future structures within the project site would be subjected to potential seismic-related hazards.	Potentially significant	<p>5-1 Prior to issuance of grading permits, the project applicant shall demonstrate that all grading operations and construction will be conducted in conformance with the City of Newport Beach Grading Ordinance and the most recent version of the Uniform Building Code, to the satisfaction of the City Engineer.</p> <p>5-2 Prior to issuance of grading permits, the project applicant shall include a note on all grading plans indicating that grading and earthwork shall be performed under the observation of a Registered Civil Engineer specializing in Geotechnical Engineering in order to achieve proper subgrade preparation, selection of satisfactory fill materials, placement and compaction of structural fill, stability of finished slopes, and incorporation of data supplied by the engineering geologist. The geologist shall geologically map the exposed earth units during grading to verify the anticipated conditions, and if they are different, provide findings to the geotechnical engineer for possible design modifications.</p> <p>5-3 Prior to issuance of grading permits, a detailed engineering-level geotechnical investigation report shall be prepared and submitted with engineered grading plans to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions and provide site-specific recommendations to address these conditions, if determined necessary. The engineering-level report shall include and address each of the recommendations included in the geotechnical report prepared by Kleinfelder and included as DEIR Appendix F (Kleinfelder, November 29, 2004, Project No. 61618). The geotechnical reports shall be prepared and signed/stamped by a Registered Civil Engineer specializing in geotechnical engineering and a Certified Engineering Geologist. Geotechnical rough grading plan review reports shall be prepared in accordance with the City of Newport Beach Grading Ordinance.</p> <p>5-4 Prior to issuance of grading permits and based upon the soil corrosivity tests conducted for the proposed project, the project applicant shall include a note on all grading plans indicating that soils testing in the areas proposed for development shall be performed under the observation of a registered corrosion engineer specializing in soil corrosivity for any areas proposed to be developed with structures. The corrosion engineer shall evaluate the corrosion potential of the soils on proposed improvements, recommend</p>	Less than significant

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**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		further testing if deemed necessary, and identify specific construction methods to address soil corrosivity, if detected.	
5.5-2: The proposed project would not result in substantial soil erosion or the loss of topsoil.	Less than significant	No mitigation measures are necessary.	Less than significant
5.5-3: Unstable geologic unit or soils conditions, including soil corrosivity, could result due to development of the project.	Potentially significant	Mitigation Measures 5-1 through 5-4 apply.	Less than significant
5.5-4: The project site is located on expansive soil that could result in substantial risks to life or property.	Potentially significant	Mitigation Measures 5-1 through 5-4 apply.	Less than significant
5.6 HAZARDS AND HAZARDOUS MATERIALS			
5.6.1: The proposed project could create a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. A possibility exists that hazardous demolition debris containing asbestos and/or lead-based paint may require remediation and off-site transportation.	Less than significant	No mitigation measures are necessary.	Less than significant
5.6.2: The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, development would not be expected to create a significant hazard to the public or the environment.	Less than significant	No mitigation measures are necessary.	Less than significant

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.6.3: Although the project site is located within the boundaries of an airport land use plan, it is 3.5 miles from the airport and project implementation would not be expected to result in a safety hazard for people residing or working in the project area.	Less than significant	No mitigation measures are necessary.	Less than significant
5.6-4: Design measures and mitigating actions detailed in the fire protection plan (FPP) would minimize the potential risks to people and/or structures to loss, injury, or death.	Potentially significant	<p>6-1 The project applicant or successor in interest shall comply with the provisions in the Fire Protection Plan (FPP) as reviewed and approved by the Newport Beach Fire Department (NBFD), including but not limited to the following specific provisions:</p> <p><i>Water Supply and Fire Flow</i></p> <ul style="list-style-type: none"> • Fire hydrants and fire flow capacity shall be approved by the fire Chief. A reduction in required fire flow of up to 50 percent, as approved by the Fire Chief, may be allowed when the building is provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,500 gallons per minute. <p><i>Fire Access</i></p> <ul style="list-style-type: none"> • New driveway entrance areas shall be designed to City requirements with all-weather driving surface of A.C. paving over approved base and a capacity rating of at least 75,000 pounds, to accommodate fire apparatus. Approach/departure angles associated with development driveways shall not exceed 3 degrees. • The minimum width of fire lanes shall be 26 feet. • There are no planned traffic calming devices. • Adequate fire apparatus turnarounds shall be provided and approved by the NBFD (current plans include a minimum 28-foot turning radius adjacent to Building TS-7 and another turnaround located adjacent to Building TS-4/Clubhouse). • Unobstructed firefighter access to all portions of the buildings via walkways, driveways, or trails shall be provided. A minimum of 3 feet for firefighter access shall be maintained along both sides of all structures adjacent to fuel modification zones. • Roads and access components (gates, sign, etc.) shall be maintained in perpetuity by the property owner. 	

**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<p><i>Building Fire and Ignition Resistance</i></p> <ul style="list-style-type: none"> The project shall include ignition-resistant construction features consistent with current fire and building codes for the proposed structures exposed to wildland vegetation (buildings TS-1, TS-2, TS-3, and TS-4). Enhanced structural requirements shall be provided for the following as detailed in the FPP: roofing, fire-resistive walls, eaves protection, venting, glazing, skylights, insulation, gutters and downspots, appendages and projections, spark arrestors, exterior doors, and detached accessory structures. <p><i>Fire Protection Systems</i></p> <ul style="list-style-type: none"> Buildings shall be fully sprinklered per the appropriate National Fire Protection Association sprinkler standard for the occupancy. <p><i>Defensible Space</i></p> <ul style="list-style-type: none"> The Fuel Modification Plan (see details, Section 3.4.3 of this Draft EIR and the FPP, Appendix H) shall be reviewed and modified as appropriate to obtain approval by the NBFDD. The approved final fuel modification plan shall be installed under the supervision of the NBFDD. Brush removal must be completed prior to commencing any flammable construction, and final inspection and approval must be obtained prior to issuance of certificates of occupancy for any structures adjacent to the fuel modification area. Fuel Modification Zones shall be subject to an annual inspection conducted by a representative of the City in order to assure that zones are maintained in compliance with the applicable fuel modification requirements. The property owner shall maintain defensible space in accordance with the Fuel Modification Plan as approved. <p><i>Vegetation Management</i></p> <ul style="list-style-type: none"> The fuel modification area along the northern boundary of the project lies partially on the Hyatt Regency property, partially on property owned by the City of Newport Beach, and partially on property owned by the Irvine Company. The proposed landscape plan/fuel modification zone plant palette shall be reviewed and approved by the NBFDD. Landscape plans shall comply with all landscaping requirements. 	

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Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
		<ul style="list-style-type: none"> • Defensible space vegetation management responsibility is assigned to persons/company(ies) owning buildings or structures on this property. • Maintenance of defensible spaces shall occur annually, prior to May 1, or more often, as determined by the Nbfd. Maintenance of the defensible space shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles, and other dead vegetative material regularly removed from roofs of buildings and structures. • Maintenance and funding for vegetation management shall be required and enforced by deed encumbrances, which are attached to the property. Such deed encumbrances shall be reviewed and approved by Nbfd Chief. • An agreement with the neighboring property owners (as described above), to be conveyed with deed, for permanent maintenance of landscape area that also serves as extended Less than significant fuel modification area for Hyatt property. • Vegetation management shall be completed prior to the start of and continue throughout the construction phase. Prior to site demolition, adequate fuel breaks shall be constructed between demolition areas and existing flammable vegetation. • Vegetation maintenance includes ensuring operation of irrigation systems. • Vegetation maintenance is required following wind and rain storms to remove combustible plant-related debris from fuel modification zones. • Caution must be exercised on steep slopes to minimize erosion with the removal of vegetation and the addition of irrigation. 	
5.7 HYDROLOGY AND WATER QUALITY			
5.7-1: The proposed project would not violate any water quality standards or waste-discharge requirements, provide substantial additional sources of polluted runoff, or otherwise degrade water quality.	Less than significant	No mitigation measures are necessary.	Less than significant

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**Table 1-1
Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation**

<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.7-2: Expansion of the Hyatt Regency Newport Beach would not substantially alter the existing drainage pattern of the site or area, resulting in substantial erosion or siltation, or flooding on- or off-site.	Less than significant	No mitigation measures are necessary.	Less than significant
5.8 LAND USE AND PLANNING			
5.8-1: The proposed Hyatt Regency expansion is consistent with applicable local plans, including the City of Newport Beach General Plan, zoning code, and local coastal program land use plan.	Less than significant	No mitigation measures are necessary.	Less than significant
5.8-2: Implementation of the project would be in accordance with the vested entitlement for the project site under the 1993 CIOA.	Less than significant	No mitigation measures are necessary.	Less than significant
5.8-3: The proposed Hyatt Regency expansion would comply with the John Wayne Airport AELUP.	Less than significant	No mitigation measures are necessary.	Less than significant
5.9 NOISE			
5.9-1: The increase in traffic from operation of the Hyatt Regency expansion project would not significantly increase traffic noise levels.	Less than significant	No mitigation measures are necessary.	Less than significant
5.9-2: New stationary noise sources from long-term operation of the Hyatt Regency Newport Beach expansion would not substantially elevate noise levels in the vicinity of noise-sensitive land uses.	Less than significant	No mitigation measures are necessary.	Less than significant
5.9-3: Newly expanded on-site noise-Sensitive Uses would be compatible with the noise environment.	Less than significant	No mitigation measures are necessary.	Less than significant

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<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.9-4: Construction of the Hyatt Regency Newport Beach expansion would not generate vibration levels that exceed the FTA criterion for human annoyance at nearby residential structures.	Less than significant	No mitigation measures are necessary.	Less than significant
5.9-5: Construction activities at the Hyatt Regency would significantly elevate the daytime noise environment in the vicinity of noise-sensitive residential and recreational uses.	Potentially significant	<p>9-1 Temporary sound blankets (fences typically comprised of poly-vinyl-chloride-coated outer shells with adsorbent inner insulation) shall be placed alongside the boundary of project-related site during construction activities that are located in the vicinity of residential and recreational land uses affected by significant levels of construction noise, which includes the areas adjacent to the Palisades Golf Course, the Newporter North Environmental Study Area, and the Bayview Landing senior community. The temporary sound blankets shall be to prevent direct line-of-sight from construction activities occurring directly adjacent to this property.</p> <p>9-3 The Construction Contractor shall ensure that all construction equipment on-site is properly maintained and tuned to minimize noise emissions.</p> <p>9-4 The Construction Contractor shall ensure that construction equipment is fit with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer.</p> <p>9-5 The Construction Contractor shall locate all stationary noise sources (e.g., generators, compressors, staging areas) as far from residential and recreational receptor locations as is feasible.</p> <p>9-6 Material delivery, soil haul trucks, equipment servicing, and construction activities shall be restricted to the hours set forth in the City of Newport Beach Municipal Code, Section 10.28.040.</p>	Significant and unavoidable
5.9-6: The Hyatt Regency is located outside the 60 and 65 dBA CNEL noise contour of the John Wayne Airport and would not result in substantial aircraft noise exposure to future occupants and workers.	Less than significant	No mitigation measures are necessary.	Less than significant

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<i>Environmental Impact</i>	<i>Level of Significance Before Mitigation</i>	<i>Mitigation Measures</i>	<i>Level of Significance After Mitigation</i>
5.10 PUBLIC SERVICES			
FIRE PROTECTION AND EMERGENCY SERVICES			
5.10-1: The proposed project's incremental increase in demand for city fire protection services would not significantly impact the Newport Beach Fire Department's ability to provide fire and emergency/medical services.	Less than significant	No mitigation measures are necessary.	Less than significant
POLICE PROTECTION			
5.10-2: The proposed project's introduction of new structures, workers, and visitors into the City of Newport Beach police service boundaries would not substantially increase the demand for police protection services.	Less than significant	No mitigation measures are necessary.	Less than significant
5.11 TRANSPORTATION/TRAFFIC			
5.11-1: The proposed project would generate an estimated total of 661 daily vehicle trips and 51 AM and 58 PM peak hour trips. These project-related trips would not impact levels of service for the existing area roadway system.	Less than significant	No mitigation measures are necessary.	Less than significant
5.11-2: The project-related V/C increase of 0.001 and 0.002 in the AM and PM peak hours for Coast Highway/MacArthur Boulevard intersection, (the only CMP intersection in the study area) would be less than the 0.010 V/C increase that would be classified as a significant impact. The project, therefore, would not result in a designated road or highway exceeding County Congestion Management Agency service standards.	Less than significant	No mitigation measures are necessary.	Less than significant
5.11-3 On-site site access and circulation to accommodate the new timeshare units, ballroom facility, and ancillary uses would not increase	Less than significant	No mitigation measures are necessary.	Less than significant

**Table 1-1
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Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
hazards or incompatible uses.			
5.11-4: A total of 912 parking spaces would be provided to serve the proposed project. However, the project's valet parking component could result in an on-site parking impact.	Potentially significant	11-1 Prior to the issuance of a building permit for the proposed ballroom facility, the project applicant shall submit a valet parking plan to the Planning Director and City Traffic Engineer for review and approval. All valet parking services provided pursuant to the valet parking plan shall comply with the measures outlined in the parking plan.	Less than significant
5.11-5: Temporary construction impacts would result in a significant impact to the Jamboree Road/San Joaquin Hills intersection during the PM peak period.	Potentially significant	11-2 During the construction of the Hyatt Regency expansion, no construction vehicle trips shall be permitted to enter or exit the project site during the PM peak period between 4:00 PM and 6:00 PM. Construction vehicles shall be defined as dirt haulers, material delivery trucks, construction-vehicle transport trucks, and other similar large vehicles. Construction employee trips are not included in this restriction.	Less than significant
5.11-6: Adequate on-site parking would not be available during some phases of project construction.	Potentially significant	11-3 The Hyatt Regency shall maintain a minimum of 467 parking spaces for use by hotel guests and visitors during the full duration of construction activities. This minimum requirement of 467 may be provided through either self-parking or valet parking. In addition, the project applicant shall submit a Parking Management Plan prior to the initiation of construction activities to the City of Newport Beach for review and approval prior to the issuance of building permits. The Parking Management Plan shall clearly identify how and where the 467 necessary parking spaces would be accommodated on-site during construction.	Less than significant

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Appendix B
Newport Beach Fire Department



Appendices

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Appendix C
Green Building Program



Appendices

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Appendix D

*Harbor Cove Community HOA Meeting Minutes on May 1,
2008*



Appendices

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Appendix E

*Sea Island Community HOA Meeting Minutes on March 26,
2008*



Appendices

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Appendix F

*Hyatt Newport Construction Traffic Impact Analysis by IBI
Group, August 15, 2008*



Appendices

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Appendix G

*Revised Traffic Impact Analysis Report by IBI Group,
September 22, 2008*



Appendices

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